

EXHIBIT 7



KENTUCKIANA
— COURT REPORTERS —

CASE NO. 20-CV-04768

JAMES FLETCHER JR.

V.

JAMES BOGUCKI, ET AL.

DEPONENT:

RAYMOND SCHALK

DATE:

May 17, 2023



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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION
4 JUDGE ANDREA WOOD
5 MAGISTRATE JUDGE MARIA VALDEZ
6 CASE NO. 20-CV-04768
7
8

9 JAMES FLETCHER JR.,
10 Plaintiff
11

12 V.
13

14 JAMES BOGUCKI, ANTHONY
15 NORADIN, RAYMOND SCHALK,
16 ANTHONY WOJCIK, UNKNOWN CITY
17 OF CHICAGO POLICE OFFICERS, AND THE
18 CITY OF CHICAGO,
19 Defendants
20
21
22

23 DEPONENT: RAYMOND SCHALK

24 DATE: MAY 17, 2023

25 REPORTER: KORTNEY CHASE

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STIPULATION

The VIDEO deposition of RAYMOND SCHALK was taken at LOEVY & LOEVY, 311 NORTH ABERDEEN STREET, THIRD FLOOR, CHICAGO, ILLINOIS 60607 on TUESDAY, the 16TH day of MAY 2023 at 10:15 a.m. (CT); said VIDEO deposition was taken pursuant to the FEDERAL Rules of Civil Procedure.

It is agreed that KORTNEY CHASE, being a Notary Public and Court Reporter for the State of ILLINOIS, may swear the witness.

PROCEEDINGS

THE VIDEOGRAPHER: My name is Brandon Rackowski. I'm the videographer today and Kortney Chase is the court reporter. Today is the 16th day of May 2023. The time is 10:15 a.m. We are at the offices of Loevy & Loevy to take the deposition of Raymond Schalk, in the matter of James Fletcher Junior.

v. Jerome Bogucki, et al. Pending in the United States District Court for the Northern District of Illinois Eastern Division, case number 20-CV-04768. Will counsel please identify themselves for the record?

MR. STARR: Sean Starr from Loevy & Loevy on behalf of plaintiff, James Fletcher.

MR. STEFANICH: Brian Stefanich for the individual defendants.

MR. MICHALIK: Paul Michalik for defendant, City of Chicago.

THE VIDEOGRAPHER: Raymond Schalk, will you please raise your right hand for the reporter?

THE REPORTER: Do you solemnly swear or affirm that the testimony you're about to give will be the truth, the whole truth, and nothing but the truth?

THE WITNESS: I do.

THE REPORTER: Thank you.

DIRECT EXAMINATION

BY MR. STARR:

Q. Good morning, sir.

A. Morning.

Q. As I mentioned, my name is Sean Starr and I represent the plaintiff, James Fletcher, in this matter. Could you just state and spell your name for the record?

A. Yes, it's Raymond Schalk. R-A-Y-M-O-N-D, S-C-H-A-L-K.

Q. All right. Let the record reflect that this is the deposition of Raymond Schalk taken pursuant to Notice in the Federal Rules of Civil Procedure. Sir, you understand that this case that you're here for concerns a shooting death of a man on December 21, 1990 named Willie Sorrell and the subsequent Chicago Police investigation of that?

A. Yes.

Q. Okay. And you understand that there was a person who ultimately was charged and convicted of that crime and his name was James Fletcher, correct?

A. Yes.

Q. And you understand that Fletcher's homicide conviction was vacated, correct?

1 A. Yes.

2 Q. And you understand that Mr. Fletcher has filed
3 a civil lawsuit and that you are a defendant in that
4 lawsuit, correct?

5 A. Yes.

6 Q. Sir, you worked on the Willie Sorrell shooting
7 investigation, along with several other Chicago Police
8 personnel, correct?

9 A. Correct.

10 Q. And one of the other officers that you worked
11 with was an officer by the name of Jerome Bogucki,
12 correct?

13 A. Yes.

14 Q. And you and Detective Bogucki worked on
15 the Sorrell investigation, correct?

16 A. Yes, we did.

17 Q. And Detective Bogucki was your partner in
18 1995; is that correct?

19 A. Yes.

20 Q. Okay. What is your opinion, sir, of Detective
21 Jerome Bogucki's work as a Chicago Police officer?

22 MR. STEFANICH: Objection to form. You can
23 answer.

24 A. He was an excellent detective who I've worked
25 for many years, and one of the best detectives I've ever

1 seen.

2 BY MR. STARR:

3 Q. Okay. What do you base your opinion on, sir?

4 A. My working with him for some 24 years.

5 24 years in detective and a couple years in patrol.

6 Q. Okay. Were you guys partners for 24 years as
7 detectives?

8 A. Yes.

9 Q. And you were also partners when you were on
10 patrol with Jerome Bogucki?

11 A. For a couple years.

12 Q. Okay. And I assume the patrol part came
13 before the detective part?

14 A. Yes.

15 Q. All right. When you say he's one of the best
16 detectives that you've ever seen, and I'm
17 characterizing, paraphrasing what you said, what do you
18 mean by that, sir?

19 A. Well, his quality of his work, his demeanor,
20 trustworthiness, dependability. I -- I could go on and
21 on of the -- of the -- of the high quality of his
22 professionalism.

23 Q. Okay. And what is it, in your opinion, you
24 were a detective -- strike that. You were a detective
25 for 24 years or longer?

1 A. I was -- well, it would be 26 years.
2 First two years I spent at Area 4 Property Crimes,
3 and then I came to Area 5 Violent Crimes.

4 Q. Okay. And I'm going to ask you at some point
5 later on in the dep to kind of give me a history of your
6 employment with the Chicago Police Department, but we're
7 not there yet. Given your -- the length of your time as
8 a Chicago Police detective, in your opinion, what
9 characteristics make a good detective?

10 MR. STEFANICH: Objection. Form. You can
11 answer.

12 A. Well, intelligence, the ability to read
13 people, understand what's going on, to be quick thinking
14 and be able to present that information in reports and
15 in court. That's basically it.

16 BY MR. STARR:

17 Q. Did you consider yourself a good detective
18 while you were employed by the Chicago Police
19 Department?

20 A. I would like to think so.

21 Q. Okay. Did you ever see Detective Bogucki make
22 mistakes while he was acting as a Chicago Police
23 Department detective?

24 A. I don't know what you mean by mistakes.

25 Q. Do you know the general definitions of a

1 **mistake?**

2 A. Doing something wrong? Is that --

3 Q. Yeah.

4 A. No, never.

5 Q. Okay. So you never saw him do anything wrong
6 as a Chicago Police detective, correct?

7 A. No.

8 Q. So you -- is it correct to say that -- strike
9 that. Did you ever see Detective Bogucki ever
10 manipulate any witnesses?

11 A. What do you mean by manipulate?

12 Q. I'm using the common definition of the term.

13 MR. STEFANICH: Objection to form.

14 BY MR. STARR:

15 Q. What do you understand manipulate to mean,
16 sir?

17 A. Well, I -- I don't -- I don't understand what
18 you mean. I mean, we speak with witnesses and we have
19 to question them. If -- if, you know, if we don't
20 believe them, we have to present them with evidence and
21 why we don't believe them. Is that manipulating?
22 I don't know what you mean by manipulating.

23 Q. Okay. Did you ever see Detective Bogucki
24 manipulate a witness to identify someone that he wanted
25 that witness to identify?

1 A. No.

2 Q. Are you aware that Detective Bogucki, in his
3 career, has been accused of manipulating witnesses?

4 A. Yes.

5 Q. What is your knowledge of that?

6 A. There was a Thaddeus Jimenez case, which I
7 wasn't involved with. I -- I was involved with the
8 second offender being arrested, but I wasn't involved
9 with Thaddeus Jimenez, but I understand Detective
10 Bogucki was.

11 Q. Okay. And you -- are you aware of any other
12 instances, besides the Thaddeus Jimenez case, where
13 Detective Bogucki was accused of manipulating witnesses?

14 A. No.

15 Q. Are you aware that in this case, he's been
16 accused of manipulating witnesses?

17 A. Yes.

18 Q. Okay. So those are the two instances that
19 you're aware of then. The Thaddeus Jimenez case and
20 then the James Fletcher case, correct?

21 A. Correct.

22 Q. Okay. Did you ever see Detective Bogucki
23 manipulate any identification procedures?

24 MR. STEFANICH: Objection. Form. Sorry.
25 You can finish, but...

1 MR. STARR: No worries. I -- let me just --
2 let me just back up. So I'll strike that question.
3 BY MR. STARR:

4 Q. Let me just say, so we're on the same page
5 here and I want to make this -- it's going to be
6 here -- we're going to here a long time, long day.
7 I want to make it go as smoothly as possible.
8 So I'm going to use the term, identification procedures.
9 What is your understanding of what that term means?

10 MR. STEFANICH: So I just don't think we need a
11 definition of manipulate from before, but that was
12 my objection.

13 BY MR. STARR:

14 Q. Okay. Okay. What do you understand
15 identification procedures to mean?

16 A. Well, if -- if you're speaking of either
17 identification from a photo array or from a lineup,
18 if that's what you mean.

19 Q. Yeah. So when I say identification procedures
20 as a general term, I'm talking about any identification
21 procedures that the Chicago Police Department did while
22 you were a detective, any identification procedures you
23 worked on. So lineups, photo arrays, anything where you
24 have a witness and you're trying to get them to identify
25 a suspect; is that fair?

A. Yes.

Q. Okay. Did you -- and I think I did define manipulate earlier, but I'm going to ask it anyways. Did you ever see Detective Bogucki manipulate any identification procedures?

A. No.

Q. Did you ever know him to -- strike that. Did you ever see him point out a suspect in a photo array?

A. No.

Q. Okay. Did you ever hear about Detective Bogucki pointing to a suspect while showing a witness a photo array?

A. No.

Q. In your entire career as a Chicago Police officer, did you ever witness anyone point out a suspect to a witness who was seeking to identify -- strike that. Let me rephrase that. In your entire career as a Chicago Police officer, did you ever see any other Chicago Police officer point out a suspect to a witness during a photo array?

A. No.

Q. Did you ever, during your time as a Chicago Police officer or detective, point out a suspect to a witness during a photo array?

A. No.

Q. Did you ever see Detective Bogucki indicate to a witness who to pick in a lineup?

A. No.

Q. Did you ever see any Chicago Police officer do that?

A. No.

Q. Did you ever do that, sir?

A. No.

Q. Okay. Did you ever become aware of Chicago Police officers pointing out suspects to witnesses during lineups?

A. No.

Q. Did you ever become aware of Chicago Police officers pointing out suspects to witnesses during photo arrays?

A. No.

Q. Did you ever see Detective Bogucki fabricate any evidence?

A. No.

Q. Did you ever become aware that Detective Bogucki had fabricated evidence?

A. No.

Q. Did you ever fabricate any evidence in your career as a Chicago Police detective?

1 A. No.

2 Q. Did you ever see Detective Bogucki cause
3 charges to be filed against the wrong person in an
4 investigation?

5 A. No.

6 Q. Did you ever become aware that Detective
7 Bogucki caused charges to be filed against the wrong
8 person during a police investigation?

9 A. No.

10 Q. Did you ever cause charges to be filed against
11 some -- strike that. Did you ever charge -- strike
12 that. Did you ever cause charges to be filed against
13 the wrong person during a police investigation?

14 A. No.

15 Q. Let me ask you about another Chicago Police
16 employee. Are you familiar with Detective Anthony
17 Noradin?

18 A. Yes.

19 Q. How do you know Detective Anthony Noradin?

20 A. He was detective at Area 5 who worked with
21 myself and Detective Bogucki for several years.

22 Q. Okay. And when you say he worked with you and
23 Detective Bogucki, was he your partner?

24 A. Well, it was a -- for -- when he was working,
25 it'd be a three man team. The three of us had worked

1 together.

2 Q. And what time period was that during, sir?

3 A. You know, I -- I don't remember the years.
4 I -- sometime in the '90s, I believe.

5 Q. Do you have a --

6 THE VIDEOGRAPHER: Would you mind moving your
7 water bottle? You're blocking this.

8 BY MR. STARR:

9 Q. Do you have an approximate -- can you tell me
10 an approximate number of years in which you and
11 Detective Noradin and Bogucki you were a three man team?

12 A. I -- well, several years, 3, 4, 5 or something
13 like that.

14 Q. And that was sometime in the 1990s?

15 A. I believe so.

16 Q. Okay. Do you recall if it was more in the
17 early 90s or in the later 90s?

18 A. You know, I really don't recall.

19 Q. And do you have any -- thank you, Kortney.

20 THE REPORTER: Uh-huh.

21 BY MR. STARR:

22 Q. Do you have any opinion of Detective Anthony
23 Noradin's work as a Chicago Police officer?

24 MR. STEFANICH: Objection to form. You can
25 answer.

A. He's -- he's an excellent detective.

BY MR. STARR:

Q. Okay. And do you base that off of your time working with Anthony Noradin?

A. Yes.

Q. So is it correct that you worked on other investigations, other than the Willie Sorrell case, with Detective Noradin?

A. Yes.

Q. And it's also correct that on other occasions, you worked on investigations with Detective Bogucki and Detective Noradin together?

A. Yes.

Q. Okay. Did you ever see Detective Noradin manipulate any witnesses?

A. No.

Q. Did you ever become aware that Detective Noradin had manipulated any witnesses?

A. No.

Q. Did you ever see Detective Noradin manipulate any identification procedures?

A. No.

Q. Did you ever become aware that Detective Noradin had manipulated any identification procedures?

A. No.

1 Q. Did you ever see Detective Noradin fabricate
2 any evidence?

3 A. No.

4 Q. Did you ever become aware that he had
5 fabricated any evidence?

6 A. No.

7 Q. Did you ever see Detective Noradin cause
8 charges to be filed against the wrong person during a
9 Chicago Police investigation?

10 A. No.

11 Q. Did you ever become aware that Detective
12 Noradin had caused charges to be filed against the wrong
13 person during a Chicago Police investigation?

14 A. No.

15 Q. What about another Chicago Police employee,
16 Sergeant or Detective Anthony or Tony Wojcik.
17 Are you familiar with him?

18 A. Yes.

19 Q. And how are you familiar with Tony Wojcik?

20 A. For a time period, he was a detective at Area
21 5. He was promoted to sergeant and at some point,
22 returned as a detective sergeant at Area 5.

23 Q. Okay. While you were a detective at Area 5,
24 was Sergeant Wojcik your sergeant?

25 A. Well, at -- at times, it depend -- whatever

1 sergeant was working is my sergeant. So at times he was
2 my sergeant, but not -- not every time that I'm working,
3 no.

4 Q. That's fair. And I didn't mean to pin you
5 down on that. I just -- for clarity's sake. So there
6 was an overlap between when Tony Wojcik was a sergeant
7 at Area 5 of detectives, and you were a detective at
8 Area 5, correct?

9 A. Yes.

10 Q. Okay. And so there was periods where you
11 worked under his supervision, correct?

12 A. He would've been my Sergeant at times, yes.

13 Q. Okay. And then do you also -- did you also
14 work with Tony Wojcik when he was just a detective at
15 Area 5?

16 A. I don't know that we worked at any -- on any
17 case in particular together. We may have. I don't
18 recall.

19 Q. And you and Tony Wojcik were never partners
20 then?

21 A. No.

22 Q. Okay. Do you have an opinion about Tony
23 Wojcik's work as a Chicago Police officer?

24 A. Highly intelligent, very dedicated,
25 hardworking detective.

1 Q. And you based that on experience working with
2 him?

3 A. Of what I saw there at Area 5, yes.

4 Q. All right. And did you ever see -- did you
5 ever see or become aware of Detective Wojcik or Sergeant
6 Wojcik manipulating any witnesses?

7 A. No.

8 Q. Did you ever see or become aware of Detective
9 Wojcik or Sergeant Wojcik manipulating any
10 identification procedures?

11 A. No.

12 Q. And did you ever see or become aware of
13 Detective Wojcik fabricating, or Sergeant Wojcik
14 fabricating any evidence?

15 A. No.

16 Q. Did you ever see or become aware that Tony
17 Wojcik caused charges to be filed against the wrong
18 person during a Chicago Police investigation?

19 A. No.

20 Q. What about another detective? What about a
21 detective by the name of Michael Fleming? Are you
22 familiar with who he is?

23 A. He -- he had been a detective at Area 5.

24 Q. Was Michael Fleming a detective at Area 5
25 while you were a detective at Area 5?

1 A. For a time period. I believe he was there
2 before I went to Area 5 also. But he was there for a
3 while, yes.

4 Q. All right. And did you ever work on any
5 investigations with Detective Fleming?

6 A. Not that I recall.

7 Q. So is it correct to say that you were never
8 Detective Fleming's partner?

9 A. No.

10 Q. And do you have any opinion of Detective
11 Fleming's work as a Chicago Police officer?

12 A. Well -- well, from what I observed, he seemed
13 to be a -- a hardworking, dedicated detective.

14 Q. Okay. And are you aware of any
15 situation -- or strike that. Did you ever see or become
16 aware that Detective Fleming manipulated any witnesses?

17 A. No.

18 Q. Did you ever see or become aware that
19 Detective Fleming manipulated any identification
20 procedures?

21 A. No.

22 Q. Did you ever see or become aware that
23 Detective Fleming fabricated any evidence?

24 A. No.

25 Q. Okay. So I asked you just about a handful of

1 people that were at Area 5 when you were there and you
2 seemed to have high opinions of all of them; is that
3 correct?

4 A. Yes.

5 Q. Were there any detectives at Area 5 that you
6 had low opinions of?

7 A. The ones that I had knowledge of, no.
8 I can't say I had anybody, a low opinion.

9 Q. Okay. Did you ever -- did you have any
10 opinions -- strike that. Were there any detectives at
11 Area 5 that you felt were bad detectives?

12 A. No. Not that I can -- not that I have
13 knowledge of that, no.

14 Q. Okay. And then I went through a list of
15 things that I asked you if you ever saw or were aware
16 of. Do you remember those line of questions I asked
17 you --

18 A. Uh-huh.

19 Q. -- about each of those different people that I
20 identified?

21 A. Uh-huh.

22 Q. Okay.

23 THE REPORTER: Is that a yes? Sorry.

24 THE WITNESS: Pardon me?

25 THE REPORTER: Was that a yes?

THE WITNESS: Yes.

BY MR. STARR:

Q. Did you ever see or become aware of any Chicago Police detective, at Area 5 or otherwise, manipulating witnesses?

MR. STEFANICH: Objection to form --

A. No.

MR. STEFANICH: -- you can answer.

BY MR. STARR:

Q. Did you ever see or become aware of any Chicago Police detective manipulating identification procedures?

MR. STEFANICH: Objection to form. You can answer.

A. No.

BY MR. STARR:

Q. Did you ever see or become aware of any Chicago Police detective fabricating evidence?

MR. STEFANICH: Objection to form. You can answer.

A. No.

BY MR. STARR:

Q. Did you ever see or become aware of any Chicago Police detective causing the wrong person to be charged for a crime?

1 MR. STEFANICH: Objection to form. You can
2 answer.

3 A. No.

4 BY MR. STARR:

5 Q. Do you think that those things happened at
6 Area 5 during your tenure?

7 A. Not to my knowledge.

8 Q. Do you have any institutional knowledge that
9 they did not happen?

10 A. I'm not sure I understand that question.

11 Q. Okay. Let me rephrase it. Actually, let me
12 ask you this way. Do you have any -- let me do this.
13 Did you -- do you have any institutional knowledge that
14 any of those things did happen during your time as a
15 Chicago Police detective?

16 MR. MICHALIK: Object to form, foundation.

17 A. I don't have any knowledge of those happening
18 at Area 5.

19 BY MR. STARR:

20 Q. Okay. Have you -- have you -- as a citizen,
21 have you become aware through the media, or any other
22 source, that there's allegations, many allegations in
23 fact, that those things were in fact happening at
24 Area 5 during the 1990s and early 2000s?

25 MR. STEFANICH: Objection. Form, foundation.

1 You can answer.

2 A. I mean, on the news, I've heard that there's
3 other lawsuits, but I don't have any knowledge of them.

4 BY MR. STARR:

5 Q. What have you -- what have you seen or heard
6 on the news about Area 5 detectives?

7 A. Well just that there's been some lawsuits
8 filed on -- on cases in -- in Area 5.

9 Q. Do you have any -- do you know which lawsuits
10 in particular have been filed against detectives at Area
11 5?

12 A. I mean, obviously, Detective Guevara's name
13 comes up on the news quite a bit, but...

14 Q. Yeah. Did you ever work with Detective
15 Guevara?

16 A. No.

17 Q. Okay. Do you have an opinion of Detective
18 Guevara's work as a Chicago Police officer?

19 A. Well, I --

20 MR. STEFANICH: I'm going to object to form.

21 You can answer.

22 A. Seeing I've never worked with him, I never
23 really formed much of an opinion, but he seemed to be a
24 hardworking detective.

25 BY MR. STARR:

1 Q. When you were at Area 5, were there any rumors
2 about Detective Guevara committing misconduct?

3 A. I've never heard any rumors like that, no.

4 Q. Okay. Did Detective Guevara have any kind of
5 reputation while you were an Area 5 detective, that you
6 were aware of?

7 A. Not that I'm aware of, no.

8 Q. Did you ever -- during your time at Area 5,
9 did you -- were you ever at Area 5, at the actual Area 5
10 location, and become aware of any detective using
11 physical force on any witness or suspect in custody?

12 A. No.

13 MR. STEFANICH: Objection to form.

14 A. No.

15 BY MR. STARR:

16 Q. Did you ever hear any rumors that Detective
17 Guevara used physical force against witnesses and
18 suspects?

19 A. No, not to my knowledge.

20 Q. Subsequent to your time -- tenure at Area 5,
21 did you hear that in the media?

22 A. I don't know what the allegations were made in
23 the media against Detective Guevara.

24 Q. Did you ever -- did I -- did I ask you, did
25 you ever work in any investigations with Detective

1 Guevara?

2 A. I may have used him once or twice as a Spanish
3 interpreter, but that would be my extent of the
4 involvement with Detective Guevara.

5 Q. Were there other detectives that spoke Spanish
6 during your tenure?

7 A. Yes.

8 Q. Okay.

9 A. I've used all of them, yes.

10 Q. But the extent of your interactions with
11 Detective Guevara, as far as you can recall on
12 investigations, were you'd bring them in to translate or
13 interpret?

14 A. That's -- what -- whatever you call it, yes.

15 Q. Okay. Sir, have you been deposed before?

16 A. Yes.

17 Q. Okay. So you're probably somewhat familiar
18 with this format, but I'm just going to go through a
19 couple of the rules and one of them, one of the more
20 important ones we've already kind of had come up.
21 All of -- all of our questions and all of your answers
22 need to be verbal. Obviously, when you're talking to
23 your loved ones or people in public, you use other cues
24 to communicate, but because there's a court reporter
25 writing down everything we say, it's really important

1 that if I ask you a question, you give a verbal answer,
2 okay?

3 A. Yes.

4 Q. All right. And along those same lines, it's
5 important that we don't talk over one another. That's
6 obviously going to happen, because that just happens in
7 normal conversation, but I'm going to do my best to get
8 my questions out. The other attorneys may make
9 objections. You want to let them have a moment of time
10 to do that and then give your answer. And I -- let's
11 all try not to interrupt each other, okay?

12 A. Yes.

13 Q. All right. And you understand that you're
14 under oath today, sir, correct?

15 A. I do, yes.

16 Q. And you understand that telling a lie while
17 you're under oath at a deposition is a crime?

18 A. Yes.

19 Q. This is going to be a more informal kind of
20 exchange than you may have experienced testifying in
21 court, but let's just try to get through this. And like
22 I said, it's going to be a long day. If I ask you a
23 question that doesn't make sense to you, please let me
24 know and I will do my best to rephrase it, okay?

25 A. Okay.

1 Q. And then if I ask you a question and you
2 answer it, I'm going to assume that you understood what
3 I was asking; is that fair?

4 A. Yes.

5 Q. Okay. If you need a break, by all means, let
6 us know. The only thing that I ask you is that if I
7 have a -- if there's a pending question, you answer that
8 question before we take a break, okay?

9 A. Yes.

10 Q. All right. Do you have any conditions today
11 that might affect your ability to provide truthful and
12 accurate testimony?

13 A. No.

14 Q. Do you have any conditions that affect your
15 memory?

16 A. Oh, well, other than I'm 70 years old and
17 I -- my memory isn't as good as when I was younger, but
18 I've also been recently diagnosed with leukemia, which
19 I'm taking medication for, which makes me more tired,
20 but that's about it.

21 Q. Okay. And I -- and I'm sorry to hear that.
22 And I'm sympathetic to that. And if you need any
23 accommodations because of that, please let us know.
24 But do you understand that the medication you're taking,
25 does it have any effect on your memory?

A. No. No.

Q. Okay. And then are you taking any medications that might affect your ability to be truthful and accurate?

A. No.

Q. Is there anything else that you can think of that might affect your ability to provide truthful and accurate testimony today?

A. No. No.

Q. Anything else that you can think of that may affect your memory?

A. No.

Q. All right. Excellent. Sir, when did you first learn that you were going to be deposed in this case?

MR. STEFANICH: Objection.

A. I believe -- I believe --

MR. STEFANICH: Hold on, hold on.

THE WITNESS: I'm sorry.

MR. STEFANICH: I'm going to object to the extent it calls for attorney-client communications. So I don't know if you want to rephrase, or if there's something you're trying to get after.

1 BY MR. STARR:

2 Q. No. I mean, I just asked when. So I was --

3 MR. STEFANICH: Yeah.

4 BY MR. STARR:

5 Q. -- asking for the, like, the dates or the
6 approximate dates. I'm not asking for any conversations
7 you may have had with your attorney. And I'm going to
8 ask you about talking to your attorney, but I don't want
9 you to reveal anything that you've discussed with your
10 attorney. Does that make sense?

11 A. Yes.

12 MR. STEFANICH: Okay. With that caveat,
13 you can answer the question.

14 A. Okay. Well, I believe I first learned I was
15 going to be deposed from my attorney. I --

16 MR. STEFANICH: So you can answer the date,
17 if you know the date.

18 A. No, I really don't know the date.

19 BY MR. STARR:

20 Q. Do you have an approximate --

21 A. Months ago, but...

22 Q. Several months ago?

23 A. At least, yeah.

24 Q. Okay. Was it within the last calendar year?

25 A. Probably.

1 Q. All right. And then when you learned that you
2 were going to be deposed in this case, were you given
3 any documents that were -- that are relative to this
4 case?

5 A. I was given a copy of the file, the police
6 file.

7 Q. Okay. And when you say a copy of the police
8 file, are you referring to the permanent retention file
9 or the investigative file?

10 MR. MICHALIK: Object to form.

11 A. Well, whatever the xerox copies came from,
12 that's what I was given.

13 BY MR. STARR:

14 Q. Okay. We'll get into -- we'll get into that
15 and we'll look at some documents and see if we can
16 identify the documents that you were given. Do you know
17 the difference between the permanent retention file and
18 the investigative file as I used those terms?

19 A. If I recall, I -- I believe there was an
20 investigative file at Area 5 and somewhere in
21 headquarters, there would be a permanent retention file.
22 I believe it's --

23 Q. And --

24 A. -- which included both -- the same documents.

25 Q. Okay. So it's your understanding that the

1 permanent retention file and investigative file were
2 housed in two different places, but contained the same
3 documents?

4 MR. MICHALIK: Object --

5 A. Yes. I'm sorry.

6 MR. MICHALIK: Object to form.

7 A. Yes.

8 BY MR. STARR:

9 Q. Okay. Did you receive a copy of the complaint
10 in this civil lawsuit when you were first notified that
11 you were going to be deposed?

12 A. I -- someone came to my house and -- and gave
13 me the lawsuit, so I guess that's what it was, yes.

14 Q. Okay. So I think that may have been when you
15 were served with a subpoena and a notice of this
16 lawsuit?

17 A. I believe so, yes.

18 Q. Okay. So at that point, you got a copy of the
19 civil complaint. Did you read it?

20 A. Yes.

21 Q. Okay. Did you read it in its entirety, or did
22 you just skim it?

23 A. I believe I just basically skimmed it.

24 Q. Did you read the fact section, do you know?

25 A. I don't recall.

1 Q. Okay. Did you ever read the entire complaint?

2 A. I don't know that I did.

3 Q. Okay. Did you receive -- so just to, like,
4 separate the time periods, like, at one point you were
5 served, and you got the complaint and then later on, you
6 were notified that you would be deposed, correct?

7 A. Yes.

8 Q. Okay. So I'm talking about when you were
9 notified about the deposition. At that juncture, did
10 you receive any additional documents besides the police
11 file, as you referred to it?

12 A. No.

13 Q. Okay. At any point, since you were first
14 notified of the fact that you were being deposed in this
15 case until today, did you receive any additional
16 documents besides what you referred to as the police
17 file?

18 A. No.

19 Q. When you were first served with the lawsuit,
20 and again, taking you to two different junctures in
21 time, right?

22 A. Uh-huh.

23 Q. So when you were first served, when you were
24 first given the complaint and the subpoena, did you
25 remember anything about the underlying investigation in

1 the Sorrell murder?

2 A. Well, I recall some of the unique facts of it
3 that it was a -- a bread truck driver was robbed, and
4 that he chased after the offenders with his own gun.
5 There was an exchange of gunfire and, you know, a person
6 just standing on the sidewalk was -- was shot by
7 one -- by one of the offender's bullets. And I -- I
8 recall the name of Fletcher had come up, but I don't
9 really -- I don't recall the investigation itself.

10 Q. Do you recall how the name Fletcher came up?

11 A. Well, I -- I do, seeing that I read the
12 reports. It came from Terry Rogers.

13 Q. Okay. So this can be difficult to do and I'm,
14 you know, going to ask you to try to do this. I'm
15 trying to talk to you now about what you recalled, just
16 from your own memory, your own independent recollection,
17 when you were first served with the complaint. And I
18 understand that subsequent to that, you reviewed
19 documents and it's maybe difficult to differentiate.
20 But to the best of your ability, I'm asking you, so that
21 when you were first served with the subpoena and the
22 complaint, you said that you recall there was a name
23 Fletcher associated. Do you -- did you at that point,
24 did you recall why the name Fletcher was associated with
25 the case?

1 A. Well, I -- I believe I recalled it came from a
2 witness, but I didn't recall from who.

3 Q. Okay. And when I say -- when I use the term
4 independent recollection, is that a term that you're
5 familiar with?

6 A. Yes.

7 Q. And what do you understand that to mean,
8 generally?

9 A. It's something that I -- I -- I recall without
10 having to review the reports.

11 Q. Yeah. So it's like a physical memory that you
12 have without the need to look at documents or talk to
13 any other person. Does that make sense?

14 A. Yes.

15 Q. Okay, cool. Any other independent
16 recollection that you had about this case when you were
17 first served with the complaint?

18 A. No, I think that was it.

19 Q. Okay. And then later on, you received what
20 you referred to as the police file when you were
21 notified of your deposition. Did you review the police
22 file when you got it?

23 A. Yes.

24 Q. Okay. And then after reviewing the police
25 file, did it refresh your recollection at all?

1 A. Well, not really. I mean, I -- I don't recall
2 any of the interviews or talking to anybody on the case,
3 but yeah, I -- no, not it -- it didn't give me any more
4 independent recollection.

5 Q. Okay. So the review -- you reviewed the
6 police file at some point within the last calendar year,
7 and the review of that did not engender any independent
8 recollection that you didn't have prior, correct?

9 A. Correct.

10 Q. Okay. So is it safe to say -- is it correct
11 to say that your memory did not improve with your review
12 of the police file? Strike that. Let me re-ask it. It
13 was kind of a poorly phrased question. Is it correct to
14 say that your memory of the Sorrell murder investigation
15 did not improve upon review of the police file?

16 A. Basically, that's correct, yes.

17 Q. Okay. And so in preparation for today's
18 deposition, did you review that police file on more than
19 one occasion?

20 A. Yes.

21 Q. Okay. Did you review any other documents in
22 preparation for today's deposition?

23 A. No.

24 Q. So just the police file, that's the only
25 documents you looked at?

1 A. Yes.

2 Q. Okay. Do you know if you testified in the
3 Willie Sorrell murder that led to the criminal
4 proceedings against James Fletcher?

5 A. Now that I recall, there was a -- I was
6 given -- I apparently testified briefly at -- at that
7 trial and I -- I do recall seeing that --

8 Q. Okay.

9 A. -- in the file.

10 Q. And that's fair. I mean, I just --

11 A. Yeah.

12 Q. -- wanted to make sure that we're on the same
13 page and I'm not trying to trick you. So in preparation
14 for today's deposition, the two different categories of
15 documents you reviewed were, one, the police file,
16 and two, the transcripts from your testimony at the
17 criminal proceedings of James Fletcher; is that correct?

18 A. They were included -- in the -- in the group
19 with the police file, yes.

20 Q. Okay. Any other documents that you can recall
21 reviewing in preparation for today besides those two
22 documents?

23 A. No, not that I recall.

24 Q. Okay. Did you meet with your counsel to
25 prepare for today's deposition?

1 A. Just over Zoom.

2 Q. Okay. And when was your Zoom meeting with
3 your -- with your lawyer?

4 A. We had a couple of -- there were several
5 meetings and -- and phone conversations. I -- I can't
6 give you the -- the exact dates.

7 Q. Okay. And I'm -- it's not -- I'm not trying
8 to pin you down and give you a memory test, but I just
9 generally want to have an idea of how much time you
10 spent talking to your attorney in preparation for today,
11 again, not asking you what you talked about. So when
12 was the earliest meeting that you had, whether it was
13 over the telephone or over Zoom, with your attorney in
14 preparation for today's deposition?

15 A. You know, I don't recall when it was actually,
16 with and I -- I forget her name, it was another female
17 attorney. I think that was the first time I had a
18 conversation about it.

19 Q. Was that --

20 A. And --

21 Q. Sorry, I didn't mean to interrupt you.

22 A. And, I mean, it was months ago, whenever it
23 was.

24 Q. All right, was that a phone conversation or a
25 Zoom meeting?

A. That was a Zoom.

Q. All right. Was that attorney's name Allyson?

A. That sounds familiar to me.

Q. Okay. And how long, approximately, was that meeting?

A. Oh, half hour to an hour maybe.

Q. And were there any other people present on that Zoom, besides you and Allyson?

A. I believe Detective Bogucki was.

Q. Okay. So just three of you then, on that Zoom, as far as you can recall?

A. Yes.

Q. All right. And then when is the next time you had any contact with your attorney about preparing for this deposition?

A. Again, I -- I can't give -- give you any dates, but there were other Zoom meetings.

Q. How many times do you think you met on Zoom with your attorneys in preparation for today's deposition?

A. I can recall two.

Q. Okay. So you told me about the first one, right?

A. Uh-huh.

Q. And the second one was --

A. And two others.

Q. Two others?

A. Yes.

Q. Okay. When was the most recent time you met on Zoom with your attorneys?

A. Maybe several weeks ago.

Q. Okay. And who was on that Zoom meeting?

A. I believe that was myself, Detective Bogucki also.

Q. And what attorney?

A. And Mr. Stefanich.

Q. Okay. And how long did that Zoom meeting last?

A. Oh, maybe an hour.

Q. And then there was a third one in between those two?

A. I believe so.

Q. And do you have any kind of ballpark estimate of when that Zoom meeting, the second of your three Zoom meetings, occurred?

A. Perhaps a month or so before that.

Q. And who was present on that Zoom?

A. Again, I believe it was myself and Detective Bogucki, and Mr. Stefanich, if I'm pronouncing it right.

MR. STEFANICH: Close enough.

1 THE WITNESS: Okay.

2 BY MR. STARR:

3 Q. So you had three Zoom meetings, one was with
4 Allyson and Detective Bogucki, and then you had two more
5 with Brian and Detective Bogucki; is that correct?

6 A. That's what I recall, yes.

7 Q. Okay. And then you said you had some phone
8 calls too?

9 A. There were phone calls because obviously this
10 deposition was continued several times, so yeah.

11 Q. Okay. So other than, like, scheduling-related
12 phone calls, did you have any phone calls where
13 you -- (coughs) excuse me, discussed the substantive
14 matters that you would be testifying to today at the
15 deposition?

16 A. I mean, there may -- there might have been
17 some things brought up, but the -- they weren't lengthy
18 conversations.

19 Q. Okay. And I don't think I asked you about the
20 length of that -- the last -- the middle meeting on
21 Zoom. Do you know how long that lasted?

22 A. Yeah, about -- in the range of an hour --

23 Q. Okay.

24 A. -- I guess.

25 Q. And so on none of the phone calls did you have

1 any lengthy conversations about your deposition in
2 preparing for your deposition?

3 A. No.

4 Q. Okay. So other than potentially Allyson,
5 Brian, and Detective Bogucki, did you meet with anybody
6 else in preparation for your deposition?

7 A. No.

8 Q. Did you ever talk to anybody else in
9 preparation for your deposition?

10 A. No.

11 Q. All right. Are you aware that Detective
12 Bogucki gave a deposition, testified at a deposition in
13 this case already?

14 A. Yes.

15 Q. Okay. Are you aware that that happened a
16 couple of weeks ago?

17 A. I believe that's when it was.

18 Q. Okay. Do you know if any of these Zoom
19 meetings happened after your -- after Detective
20 Bogucki's deposition?

21 A. No. No, they didn't happen after.

22 Q. Okay. So they were all before --

23 A. Yes.

24 Q. -- Detective Bogucki's meeting --

25 A. Yes.

1 Q. -- or deposition. Okay. All right.

2 And during those Zoom meetings, were you shown documents
3 on the screen?

4 A. I don't recall that. I -- I had the documents
5 in front of me that were -- had been previously given to
6 me, so...

7 Q. Okay. And so you discussed the documents, but
8 you didn't see any on the screen; is that correct?

9 A. That's what I remember, yes.

10 Q. All right, that's fair. And did -- you never
11 met with Mr. Michalik or any from -- any attorneys from
12 the city; is that correct?

13 A. That's correct.

14 Q. Okay. And other than what you've testified
15 just now, did you do anything else to prepare for
16 today's deposition?

17 A. No.

18 Q. Okay. Did -- you didn't meet with your
19 attorneys yesterday or today in preparation for today's
20 deposition?

21 A. No.

22 Q. Okay. Mr. Schalk, did you graduate from high
23 school?

24 A. Yes.

25 Q. Where did you go to high school, sir?

A. Holy Cross High School.

Q. All right. That's Holy Cross High School here in Chicago, correct?

A. River Grove.

Q. River Grove, okay. Sorry. And did you go to college subsequent to that, sir?

A. Yes, I did.

Q. Where'd you go to college?

A. University of Illinois in Chicago.

Q. And did you earn a degree from University of Illinois in Chicago?

A. Yes, a BA in criminal justice.

Q. What year was that, sir?

A. I graduated in '75.

Q. Okay. And after your BA, did you seek out and complete any additional higher education?

A. No.

Q. All right. Are you from the City of Chicago originally?

A. Yes.

Q. Okay. North-sider or South-sider?

A. North Side.

Q. All right. Are you currently employed, sir?

A. No.

Q. And did you retire from the Chicago Police

1 Department?

2 A. Yes.

3 Q. All right. So let's -- well, I'd like to get
4 an overview of your career as a Chicago Police officer,
5 you know, where you were assigned or detailed to, what
6 your position was in approximate dates, obviously.

7 A. Okay.

8 Q. You know, there may be some, you know, points
9 you don't remember exactly the dates. That's fine. When
10 did you retire, first of all?

11 A. I retired on July 15th of 2006.

12 Q. Okay. And did you retire as a Chicago Police
13 detective, was that your rank?

14 A. Yes.

15 Q. Okay. And then when did you -- when did
16 you -- did you go to the police academy?

17 A. Yes.

18 Q. When did you go to the police academy?

19 A. I started in -- January 3, 1977.

20 Q. Was that -- was the academy six months back
21 then, when you went?

22 A. I believe it was, yeah.

23 Q. Okay.

24 A. Yes.

25 Q. And then where was your first assignment and

1 rank after the academy?

2 A. Oh, well, I was assigned as a patrolman
3 at -- in the 15th District.

4 Q. Okay. And that was also in 1977?

5 A. Yes.

6 Q. All right. How long were you in the 15th
7 District?

8 A. Until October of 1980, when I was promoted to
9 detective.

10 Q. Was it a merit promotion, or did you take the
11 detective's test?

12 A. I took the test.

13 Q. Okay. Was that your first time taking the
14 test and passing the test?

15 A. Yes.

16 Q. Okay. And as a detective, where were you
17 detailed or assigned?

18 A. I was initially assigned to area -- Area 4
19 Burglary, which they -- they reorganized the Detective
20 Division into Violent and Property Crimes, it became
21 Area 4 Property Crimes.

22 Q. They reorganized it while you were already
23 there?

24 A. Yes.

25 Q. All right. So would that be -- would

1 your -- was your assignment to Area 4 Burglary in 1980?

2 A. Yes.

3 Q. Okay. And then do you know when the property
4 crimes designation came into effect?

5 A. It was further thereafter, probably within six
6 months.

7 Q. Okay. So it could have been '80 or '81?

8 A. Yeah, right. Yes.

9 Q. Okay. And then how long were you there at
10 Area 4 Property Crimes?

11 A. Until September of 1982, and I transferred to
12 Area 5 Violent Crimes.

13 Q. Area 5 Violent Crimes, you said?

14 A. Yes.

15 Q. Okay. Did you transfer by your own volition?
16 Was that something you wanted to do --

17 A. Yes.

18 Q. -- or did you just get moved? Okay. And how
19 long were you at Area 5, in Violent Crimes?

20 A. Until I retired.

21 Q. Okay. That's pretty straightforward. All
22 right. Was Area 5, in September of 1982, was that
23 located in the same place it's located today?

24 A. Yes.

25 Q. Okay. Isn't that Grand and Central?

1 A. Grand and Central, yes.

2 Q. On the second floor of the building?

3 A. Yes.

4 Q. Okay. Did you have a -- now, I'm going to be
5 a little specific here. I know you started in 1982 and
6 were there until 2006. This case in -- the shooting
7 happened in 1990, are you aware of that?

8 A. Yes.

9 Q. Okay. Do you know when you were assigned to
10 this case initially?

11 A. Well, the first report I see is in 1995,
12 so I -- I assume that was my first contact with this
13 case.

14 Q. Okay. And we will look at the reports and try
15 to dig in on them a little bit to figure out exactly
16 that point. So I'm going to start asking you about
17 1995. Are you also aware that James Fletcher was
18 arrested in 2002?

19 A. Yes.

20 Q. Okay. So that's a seven-year gap, but I want
21 to talk to you about your time as a detective during
22 that period of time. And this is just as a preface, if
23 you -- if I ask you a question that applies to '95 but
24 doesn't apply to 2002, and you're aware of that
25 difference, can you point that out for me?

1 A. Sure.

2 Q. Okay. And I'll try to ask both ways, but in
3 case -- just in general, if there's something that I
4 ask, that you're like, I know in 2002 that wasn't in
5 effect, you know, that regulation was gone, in '95 it
6 was in place, please point that out.

7 A. Yes.

8 Q. Okay, thank you. In 1995, as a Area 5
9 detective, did you work a regular shift?

10 A. Primarily -- primarily as my time as a
11 detective, I would -- I would work from 4:30 to
12 one -- 1:00 a.m. There would be times where I'd have to
13 work a midnight shift or a day shift, but the -- the
14 vast majority of the time was 4:30 to 1:00 a.m.

15 Q. Okay. Did you choose to work that period of
16 time?

17 A. Yes.

18 Q. Okay. Why did you want to -- let me ask you
19 this, actually. You said that you transferred to
20 Area 5 Violent Crimes by your own volition. Why did you
21 want to work at Area 5 Violent Crimes?

22 A. I wanted -- well, I wanted to work in violent
23 crimes, and I wanted to get back to working with
24 Detective Bogucki, who was already there.

25 Q. Okay. And you would've been a parole

1 officer -- patrol officer in the 15th District with
2 Bogucki?

3 A. For a couple of the years, yes.

4 Q. Okay. And then he, at some point, had made
5 Detective before you?

6 A. No, we made detective together.

7 Q. Okay. But he went to Area 5 and you went to
8 Area 4?

9 A. Correct.

10 Q. Okay. All right. And then the 4:30 p.m. to
11 1:00 a.m. shift, is that the time you regularly worked,
12 you said?

13 A. Yes.

14 Q. And what watch was that?

15 A. Police department calls it the third watch.

16 Q. Third watch?

17 A. Yes.

18 Q. Okay. And I know the times have changed a
19 little bit, and maybe they even changed during your
20 period of time there, but for the most part, was the
21 third watch approximately 4:30 p.m. to 1:00 a.m.?

22 A. Yes.

23 Q. All right. And then what about the second
24 watch, what was the times during your general tenure
25 there?

1 A. That was -- that was the day shift. They'd
2 start -- I assume they -- they started at, like, about
3 8:30, or 8:00.

4 Q. And went till 4:30, or --

5 A. 4:30, time -- thereabouts.

6 Q. Okay. And you say it was the day shift, was
7 the third watch the night shift?

8 A. Well, there's -- the first watch is -- the
9 police department calls it the first watch that works
10 the midnight shift.

11 Q. Okay.

12 A. Since they start at 1:00 a.m. and continue on
13 until the morning.

14 Q. So the first watch was the midnight shift?

15 A. Yes.

16 Q. Because it started at midnight and went
17 until -- you said 8:00 in the morning?

18 A. Probably about --

19 Q. Okay.

20 A. -- that time, yes.

21 Q. Did the third watch have a moniker, or a...?

22 A. Just the -- just the third watch.

23 Q. Just the third watch? Okay.

24 A. Yeah.

25 Q. Okay. Just -- I wanted to be clear in case

1 you refer to something, I want to know what you're
2 talking about. All right. When you were a Area 5
3 detective in Violent Crimes, did you have an office?

4 A. No.

5 Q. Was it the case that the detectives had an
6 open area with desks, and they would work at the desks
7 that were in the open area?

8 A. Whatever was available, yes. It's all open
9 area, and you grabbed whatever desk and computer you
10 could get, yeah.

11 Q. Okay. So you didn't have a set computer that
12 you used every time?

13 A. No.

14 Q. All right. But for the most part, you were
15 partners with Detective Bogucki during your time at Area
16 5, correct?

17 A. Correct.

18 Q. All right. Outside of a professional context,
19 are you and Detective Bogucki friends?

20 A. Yes.

21 Q. Okay. And you still in contact with him to
22 this day?

23 A. Yes.

24 Q. Okay. Do you interact with him socially to
25 this day?

1 A. Well, we live some distance apart now,
2 so I -- I don't see him in person that often, maybe once
3 a year, but we spoke -- we speak over the phone
4 regularly, maybe once or twice a month, maybe.

5 Q. Okay. Do you have any continued interaction
6 with Detective Noradin?

7 A. I see Detective -- Detective Noradin once a
8 year. There are nine of us that have season Cubs
9 tickets together. And once a year, we all get together,
10 either on Zoom or -- or in person to pick the -- the
11 Cubs games. The nine of us get -- get nine -- each of
12 us get nine games. So that's the one time a year
13 I -- I see Detective Noradin.

14 Q. Okay. Well, the Cubs are having a better year
15 this year, so I'm sure you're happy about that.

16 A. A little bit.

17 Q. Yeah, a little bit. The nine -- the nine
18 people, are they all -- are they all former Chicago
19 police detectives?

20 A. Except one, yes.

21 Q. Okay. And other than Detective Noradin, who
22 are the other people that are part of your Cubs group?

23 A. Well, he -- he's the only one that's involved
24 in this case, so I don't know that I need to name the
25 other detectives, get other people involved.

1 Q. Yeah. I mean, unless there's a -- you know,
2 unless your attorney instructs you that you don't have
3 to answer, this is a discovery deposition, so
4 we can -- I can pretty much ask you whatever. I'm not
5 trying to, like, get into your personal business too
6 much, but unless there's a privileged reason where you
7 can't answer, you're obligated to answer, and I'm sure
8 your attorney will instruct you.

9 MR. STEFANICH: You got to answer.

10 THE WITNESS: I got to answer?

11 MR. STEFANICH: Yeah.

12 A. Okay. There's myself, Detective Noradin,
13 Tom Boyce, Tommy Leva, Pete Best, his brother, George
14 Best, Hector -- what's Hector's last name? Alvarez,
15 I believe, and it's John Boyle. Did I -- did I give
16 nine people there?

17 BY MR. STARR:

18 Q. 1, 2, 3, 4, 5, 6, 7, 8. One short.

19 A. Who am I leaving off?

20 MR. STEFANICH: Is he the ninth?

21 BY MR. STARR:

22 Q. Is Bogucki part of the group?

23 A. No.

24 MR. STARR: Okay. No, but he's two short.

25 MR. STEFANICH: Okay. With him?

1 A. Who am I leaving off, who am I leaving off?
2 It'll come to me, but --

3 BY MR. STARR:

4 Q. Yeah, tell you what --

5 A. -- I can't right now.

6 Q. -- if you remember it at some point in the
7 dep, let me know. If not, okay. All right. So the
8 only time you've see Noradin is in advance of that --

9 A. I can think of one more, Leo Schmitz.

10 Q. Oh, okay.

11 MR. STEFANICH: How did you forget Leo Schmitz?

12 BY MR. STARR:

13 Q. All right, so the only time you see Detective
14 Noradin, currently, is that Zoom meeting where you
15 decide who gets what tickets, correct?

16 A. Yes.

17 Q. Okay. What about Tony Wojcik, do you do you
18 see Tony Wojcik at all anymore?

19 A. Not at all, no.

20 Q. Okay. Back to Area 5, can you give me a
21 general description of the physical layout of the second
22 floor, Area 5 Violent Crimes?

23 A. It's one large open area, you know,
24 with -- with -- with desks and computers. And along one
25 wall are interview rooms, and you know, the Violent

1 Crimes office, the Property Crimes office. There's a
2 front desk. In the back, there's a lineup room and some
3 other offices with files.

4 Q. Okay. And I just -- you just went through
5 that pretty quickly, I just want to make sure I got
6 everything correctly. So general open area. And you
7 previously described there was places where detectives
8 use computers. Are those at desks, I assume?

9 A. Yes.

10 Q. Okay. And those are in the open area?

11 A. Yes.

12 Q. Okay. And then you -- I think you went
13 through a list of different types of offices that are
14 actually part of that second floor?

15 A. Yeah.

16 Q. You said there was interview rooms, or those
17 individual rooms?

18 A. Yes.

19 Q. How many of those were there?

20 A. I believe there was five.

21 Q. Okay.

22 A. Five or six.

23 Q. Those rooms have doors on them?

24 A. Yes.

25 Q. Those rooms have windows on them?

1 A. There's glass in the doors.

2 Q. Okay. Like a window in the door?

3 A. Yes.

4 Q. Okay. Do they have windows looking outside?

5 A. No.

6 Q. Okay. And then you said there's a Violent
7 Crimes office?

8 A. Yes.

9 Q. Whose office was that?

10 A. Well, there -- there's -- there's an inner
11 office for the Violent Crimes lieutenant, and then
12 there's an outer office where, generally, the --
13 whatever sergeant is working has a desk in there.

14 Q. Got you. And there's a property crimes
15 office, same kind of designation where there's
16 lieutenants and sergeants?

17 A. Yes.

18 Q. All right. And then you said there's a front
19 desk. Is that an actual desk that's sitting in the
20 open, or is that an office?

21 A. It's -- it's -- it's open. It's -- it's a
22 large desk area. As you first walk in, it would be to
23 your right.

24 Q. Okay.

25 A. There's -- there's generally a couple of

1 detectives that answer phones behind there and -- and,
2 you know, if someone comes in, ask them, you know, why
3 they're there.

4 Q. Okay. And there's a lineup room, you said --

5 A. Yes.

6 Q. -- what is -- what does that entail?

7 A. Well, there's two rooms and there's a one-way
8 mirror in between them. One side is -- is for witnesses
9 to view the participants, and the other side is where
10 the suspect and the other fillers in the lineup stand.

11 Q. In that room where the suspect and the fillers
12 stand, is there anything in that room?

13 A. I mean, there might -- there might be a metal
14 bench in there like there is in all the other interview
15 rooms, but -- yeah, I believe there is, but nothing
16 else.

17 Q. Okay. There's not, like, a podium they stand
18 on --

19 A. No.

20 Q. -- or anything like that?

21 A. No.

22 Q. Okay. And the glass is -- you can see from
23 the room where the witnesses are into the room where the
24 suspect and fillers are?

25 A. Yes.

1 Q. Can you see the other way?

2 A. No.

3 Q. Okay. And then you said there was a file
4 room, just one file room?

5 A. There's -- there was a file room in the back,
6 and then each -- well, each -- Property Crimes and
7 Violent Crimes, you know, had file cabinets. And there
8 was another office up -- there was a commander's office
9 up front. I believe there were some file cabinets in
10 there, but...

11 Q. All right. And then the -- just back to the
12 lineup room, real briefly. On the back of the wall,
13 was there, like, a height scale?

14 A. There -- there was a height scale along the
15 wall where the interview rooms were.

16 Q. There's a height scale in the interview rooms,
17 but not in the lineup --

18 A. Not in it, on the outside wall.

19 Q. Okay. So in the open area?

20 A. Yes.

21 Q. Okay. But not in the lineup room, correct?

22 A. Right. Correct.

23 Q. Okay. And I'm going to ask you about this a
24 little more in detail, but just since we're on the topic
25 now, if you were going to -- as a Chicago Police

1 detective, you were going to have -- would you ever have
2 the occasion to take photographs of the participants in
3 the lineup?

4 A. Yes.

5 Q. Okay. And if you were going to take
6 photographs of the participants in a lineup, would that
7 be done in that lineup room?

8 A. No, it's really not big enough to get the
9 whole view of -- of all the participants in the lineups,
10 so they'd be brought out in the open area where I could
11 take the full picture.

12 Q. Okay. And would you take them out to the area
13 where that height scale is to take the photograph?

14 A. No. I mean, we -- we might, if we wanted an
15 individual photo of -- of someone in the lineup, we
16 might put that person in to stand against that, but not
17 everyone in there, no.

18 Q. Was there a specific place where you took
19 photos of the lineups -- or strike that. Was there a
20 specific place within Area 5 where you would take
21 photographs of the participants in a lineup, when you
22 were photographing a lineup?

23 A. Well, just basically, you walked them out of
24 that room to the outer area and then line them up in the
25 same position, and then -- and then take the photos.

1 Q. Okay. So would that photograph happen right
2 after you did the lineup, or would it happen at some
3 other point in time?

4 A. Well, some other point, whenever I was ready
5 to take the photo of -- of the lineup.

6 Q. Okay. And those interview rooms -- are those
7 the same -- were those holding rooms for suspects as
8 well?

9 A. Well, they -- they could be held in there for
10 a while, yes.

11 Q. Okay. Was there any dedicated room to holding
12 a suspect?

13 A. No. I mean, if -- if someone was going to be
14 there for a length of time, they'd be put in the -- in
15 the lockup downstairs in the 25th District.

16 Q. Okay. And during your time as a Chicago
17 police detective, you interviewed witnesses and suspects
18 in those interview rooms at Area 5, correct?

19 A. Yes.

20 Q. All right. At any point in time, were you
21 ever participating in a -- in an interview, or
22 conducting an interview, where you were -- had the
23 occasion to cover the window of the interview room with
24 paper, so that someone on the outside of the room could
25 not look into the room?

1 A. At times, they'd cover that -- that glass so
2 that if there were witnesses that were coming into the
3 outer area, wouldn't be able to see an individual
4 in -- in there until they stood in a lineup.

5 Q. Okay. So there had -- there were occasions
6 where you covered up the window with paper so that the
7 outside people cannot look into the interview room,
8 correct?

9 A. Yes.

10 Q. And the only reason you did that was to
11 obscure the witnesses from whoever was in the
12 suspect -- in the interview room?

13 A. Well, you don't want to witness to see a
14 suspect before they do the lineup.

15 Q. So is that correct?

16 A. Yes.

17 Q. Okay. Any other reason why you would ever
18 cover up a window to an interview room with paper,
19 other than that?

20 A. No, not that I can recall, unless we didn't
21 want one witness to see another witness for some reason,
22 but...

23 Q. Was it common during your tenure at Area 5 to
24 see those windows covered up with paper while interviews
25 being conducted?

1 A. I wouldn't say common, but it -- it --
2 it's -- it occurs.

3 Q. Was it a frequent thing that you had seen?

4 A. Again, I --

5 MR. MICHALIK: Object to the form.

6 A. Again, I don't know what you mean by frequent.
7 It happens, but it's not -- it's not like they're always
8 covered. They're all -- they're -- they're more open
9 than ever covered.

10 BY MR. STARR:

11 Q. Okay, that's fair. During your tenure as an
12 Area 5 detective, in a given week, would you generally,
13 always see at least one occasion where there'd be a
14 interview room covered with paper?

15 A. No, I wouldn't say every week that would
16 happen. I don't know how often it would, but I
17 wouldn't -- that seemed to be an awful lack of -- of
18 times. I -- I wouldn't think it happened that often.

19 Q. Okay. Would you say that it would happen once
20 every two weeks?

21 A. Again, I couldn't put a time period on it.

22 Q. Okay. You couldn't -- you couldn't put a
23 frequency period on --

24 A. That's --

25 Q. -- how many times you would see that in a

1 given week or month, correct?

2 A. Correct.

3 Q. But it would -- but you'd see on a somewhat
4 regular basis, and you were aware that it was a practice
5 that was -- that was done in Area 5, correct?

6 MR. MICHALIK: Object to the form.

7 A. Yeah. I don't know what you mean by practice,
8 it just was the proper thing to do for detectives,
9 if, you know, if they're conducting lineups.

10 BY MR. STARR:

11 Q. Okay. So again, let's see if we can define
12 some terms to make this a more efficient deposition.
13 I'm going to use the term policy. And when I -- when I
14 say the word policy, unless I specify otherwise, I'm
15 talking about a written Chicago Police Department
16 policy; is that fair?

17 A. Yes.

18 Q. And then I'm also going to use the word
19 practice, which, what I mean by that is, the things that
20 you did as a Chicago Police officer are on a regular
21 basis. Is that a fair definition?

22 A. Yes.

23 Q. Okay. And if, you know, if at some point in
24 time, I'm using practice and it doesn't fit the question
25 or the answer, please let me know and we'll -- I'll try

1 to rephrase it, okay?

2 A. Okay.

3 Q. Okay, great. Can you tell me what a witness
4 show-up is in Chicago Police parlance?

5 A. A witness show-up? I -- it's not a term I've
6 used.

7 Q. Okay. What about a photo show-up?

8 A. Yes.

9 Q. What's a -- what's a photo show-up?

10 A. It's -- it's -- it's a group of photos,
11 generally containing at least one suspect or -- or more
12 suspects, that he would show to a witness.

13 Q. Okay. So when I asked you about a witness
14 show-up, has it ever been the -- an occasion, strike
15 that. Regarding a witness show-up, was it ever
16 the -- an occasion in your career where you would take a
17 witness to see a suspect that was out in the field
18 somewhere?

19 MR. MICHALIK: I just object to the form.

20 A. Take a witness to see a suspect?

21 BY MR. STARR:

22 Q. Yeah. Let me -- let me rephrase it, so we're
23 clear. Did you ever have an occasion where you, as a
24 Chicago Police officer, were aware that a suspect was
25 being held in police custody, but not at a police

1 station, somewhere out in public, and during that time,
2 brought a witness to see that person?

3 A. I think there had been times when someone was
4 arrested, like a very short time after the crime has
5 happened, where the -- the beat officers, or whoever the
6 arresting officers were -- were, would take a witness to
7 see that person.

8 Q. Okay. And do you know if that was what is
9 referred to as that witness show-up?

10 A. I -- I don't know that that would be the term
11 used.

12 Q. Do you know if there was a term that applied
13 to that circumstance?

14 A. No, not a particular term.

15 Q. Did you use the term photo show-up during your
16 time at the Chicago Police Department?

17 A. Yes.

18 Q. And I believe you defined a photo show-up as
19 when you would bring a group of photos to show a
20 witness?

21 A. Yes.

22 Q. Okay. What's a photo array?

23 A. It's the same thing as a -- a photo show-up,
24 it's a group of photos.

25 Q. Is there any difference between a photo

1 show-up and a photo array?

2 A. Not to my opinion. It -- it's the same thing,
3 as far as I'm concerned.

4 Q. Do you know why there's two different terms
5 for the same thing?

6 A. No.

7 Q. Did you use both terms interchangeably?

8 A. I believe I did.

9 Q. Do you know if there's any Chicago Police
10 Department policy that refers to photo arrays?

11 MR. STEFANICH: Objection. Foundation.

12 You can answer.

13 A. I don't know specifically. There -- there
14 very well could be some directive as -- as to that.

15 BY MR. STARR:

16 Q. All right. Do you -- are you aware of any
17 Chicago Police Department policy that applies to photo
18 show-ups?

19 A. Again, I don't know if there's anything
20 written down about it, there -- there very well could
21 be.

22 Q. Did your involvement in this -- in the Willie
23 Sorrell police investigation end in 2002?

24 A. Yes.

25 Q. Okay. And I understand that you testified,

1 I believe it was in 2005, does that sound right?

2 A. I believe so.

3 Q. Okay. Since 2002, other than your testimony,
4 when was the next time you had any involvement
5 whatsoever in the Willie Sorrell police investigation?

6 A. After 2002?

7 Q. Yes.

8 A. Other than testifying in court, I had no
9 involvement in.

10 Q. Okay. After your testimony in approximately
11 2005, in the James Fletcher criminal proceedings, when
12 was the next time you thought about the Willie Sorrell
13 police investigation?

14 A. I believe when somebody came to my house with
15 the -- the lawsuit.

16 Q. Okay. And then after 2005, when you testified
17 in the James Fletcher criminal proceedings, when was the
18 first time you thought about James Fletcher?

19 A. Again, after I learned I was being sued.

20 Q. So from 2005 -- approximately 2005, until you
21 were served in this lawsuit, you had no thoughts or
22 interactions on the -- regarding the Willie Sorrell
23 homicide investigation, correct?

24 A. That's correct.

25 Q. When you received that complaint, when you

1 were served, and you said you generally looked at it
2 and read some of it, I believe, did you become aware
3 that this lawsuit stems from an arrest that happened in
4 2002?

5 A. Well, I be -- became aware that James Fletcher
6 was arrested in that -- in that case.

7 Q. Right. But I'm specifically thinking -- I'm
8 asking about whether or not you were aware that that
9 arrest occurred in 2002?

10 A. Well, I -- if -- if what I read in -- in what
11 I was served said that. If not, I -- I learned about it
12 by seeing the police reports.

13 Q. Okay. That's fair. Do you recall, when you
14 reviewed the complaint, whether or not you became aware
15 that the crime that occurred, that led to that 2002
16 arrest, occurred in 1990?

17 A. Yes.

18 Q. Okay. And you had previously testified that
19 you believed you started working on the case in 1995,
20 right?

21 A. I believe so.

22 Q. This case in 1995, stemming from a shooting in
23 1990, would that case have been considered a cold case?

24 A. You could call it that, yes.

25 Q. Well, I don't want to call it that.

1 Did -- was that -- do you -- during you -- when you were
2 assigned to work on this case, did you -- were you told
3 by anyone that this is a cold case?

4 A. Well, I don't know if I was specifically told
5 that. There was a time period when I was working
6 on -- on cold cases and -- and old homicides.

7 Q. And if I'm using the term cold cases because
8 it's something from popular culture, and that's not what
9 you -- the term you used as a police officer.

10 A. Uh-huh.

11 Q. Tell me, was there a different term that I
12 should be using?

13 A. No, that's just -- we didn't really use cold
14 cases. We just -- I mean, we did somewhat, that that
15 we were assigned to the cold cases. But we wouldn't be
16 handed the case and say, here's a cold case. That's
17 just not...

18 Q. Okay. That's fair. But you did use the term
19 and you were familiar with the concept of a cold case,
20 correct?

21 A. Yes.

22 Q. And what was that general understanding?

23 A. It's an older case. It hasn't been solved
24 and -- and it may or may not have been worked on
25 in -- for years.

1 Q. Okay. And you said there was a period of time
2 where you were working on cold cases?

3 A. Yes.

4 Q. And what period of time was that, sir?

5 A. Well, that was probably also in the
6 late 90s -- or mid to late 90s. I don't know how many
7 years. But it -- it -- it also got busy up in Area 5,
8 or if they didn't have anybody to go out a -- a recent
9 homicide. Okay. You're available. Go, you know.
10 But primarily, for the time period there, we were
11 basically assigned to the old cases.

12 Q. Okay. So just -- I think I understand you.
13 I just want to make sure we're clear for the record.
14 There was a period in the 1990s where you were primarily
15 assigned to work on cold cases. There were times where
16 you would work on current homicide investigations,
17 but your primary employment focus was on cold cases;
18 is that correct?

19 A. Yes.

20 Q. Okay. And who assigned you to work on cold
21 cases during this period of time?

22 A. Who assigned us? I -- if it wasn't the
23 commander, it'd have been my lieutenant. One of the two
24 probably.

25 Q. And when you say us there, are you referring

1 to you and Detective Bogucki?

2 A. Yes.

3 Q. Okay. Do you recall if there was a
4 conversation where a supervisor came to you and said,
5 hey, Detective Bogucki, Detective Schalk, I have X
6 number of cold cases, and I want to put you guys on it?

7 A. Well, there had to have been some conversation
8 saying, we want you to do this, whether that was from
9 the commander or lieutenant, but you know, there
10 would've been some conversation with it.

11 Q. But you don't have a specific independent
12 recollection of that conversation?

13 A. No.

14 Q. Okay. Was there any Chicago Police Department
15 policies that you were aware of that applied to how a
16 detective should work a cold case?

17 A. No, I -- I don't recall anything in
18 particular. You worked a cold case the same you worked
19 another one.

20 Q. Well, depending, you know, is there --
21 is -- let me ask you this. Strike that. Is there a
22 number of years or a duration of time that has to elapse
23 for something to be considered -- for a case to be
24 considered a cold case?

25 MR. MICHALIK: Objection. Foundation.

1 A. No, I don't think there's a specific time.

2 BY MR. STARR:

3 Q. Okay.

4 A. You know, just -- it's basically something
5 that's not regularly being worked on.

6 Q. Okay. And it's also something that had gone
7 unsolved, correct?

8 A. Yes.

9 Q. All right. Was there any kind of Chicago
10 Police Department practice that you're aware of that
11 applied to how you should work a cold case?

12 A. No, I don't know there's a -- that there's
13 any particular practice. We work at homicides, whether
14 they're new or old, the -- the best we can.

15 Q. Okay. Is there any -- that you're aware of,
16 is there any period of time that can -- that can elapse
17 where a cold case is no longer worked on by Chicago
18 Police Department detectives?

19 A. A time period when no -- when you can't work
20 on it?

21 Q. Yeah.

22 A. No.

23 Q. Okay. Do you have any recollection about what
24 the oldest cold case -- and when I say oldest, the most
25 amount of time elapsed from when the crime happened to

1 when you started working on it, was?

2 A. No, I really don't remember that.

3 Q. Okay. But this one was -- when you started
4 working on it, it was five years old, correct?

5 A. Yes.

6 Q. Okay. And then you didn't arrest anybody in
7 this case until 2002, correct?

8 A. Correct.

9 Q. So it was 12 years after the crime that you
10 arrested somebody in this case, correct?

11 A. Yes.

12 Q. Okay. Is there any other cold cases that you
13 worked where 12 years had elapsed between when the crime
14 occurred and when you arrested someone?

15 A. There probably was. I don't recall what the
16 cases would be, but there probably was.

17 Q. Okay. When you say there probably was, you're
18 just making an assumption, right?

19 A. Yes.

20 Q. You don't have any independent recollection of
21 any other cases that took 12 years of solve?

22 A. I don't, but it -- it isn't outrageous to me
23 that it would take that time period.

24 Q. Okay. And that's fair. I'm not asking
25 whether you think it's outrageous. I'm just wondering

1 if you are specifically aware of any cases that took
2 that long to solve?

3 A. I don't -- I couldn't name the specific cases,
4 no.

5 Q. Okay. Can you -- is there any other cold
6 cases that you worked on that took longer to solve?

7 A. There may have been. Again, I don't recall.

8 Q. Okay. So you don't have a specific
9 recollection of any other cold cases that you worked on
10 that took more than 12 years to solve, correct?

11 A. Correct.

12 Q. Okay. Was there any kind of practice or
13 protocol about how long you should work on a cold case
14 before you abandon it?

15 A. No. You -- you work -- you work on it till
16 you feel that you were at a dead end, and then you have
17 to move on to something else.

18 Q. Do you have any recollection of ever having
19 feelings like that in this case, that you have reached a
20 dead end?

21 A. No. No.

22 Q. Is that because you don't have much of an
23 independent recollection of this case? Or is that
24 because that didn't happen?

25 MR. MICHALIK: Object to the form.

1 A. Well, from looking at the reports, there were
2 witnesses that needed to be re-interviewed, so it was
3 something we always wanted to do.

4 BY MR. STARR:

5 Q. Why do you say that? Why was it something you
6 always wanted to do?

7 A. Because that's -- that would be following up
8 on the investigation.

9 Q. When did you -- were you work -- strike that.
10 You were working in Area 5 Violent Crimes in 1990,
11 correct?

12 A. Yes.

13 Q. Do you know -- were you familiar with this
14 case in 1990?

15 A. No.

16 Q. Okay. So did you only become familiar with
17 this case in 1995?

18 A. I believe so. That's when the -- the first
19 report I have in there.

20 Q. Okay. So when you say that you always wanted
21 to interview the other suspect -- or other witnesses in
22 this case, are you talking about from 1995 until 2002
23 when you actually did interview them?

24 A. Yes.

25 Q. Okay. Do you have any independent

1 recollection of any investigative steps you took in 1995
2 in this case?

3 A. Independent, no.

4 Q. Okay. So you don't -- you don't have any
5 independent recollection of whether or not you
6 interviewed anybody in conjunction with the Willie
7 Sorrell shooting in 1995, correct?

8 A. I just know who I interviewed from the report.

9 Q. That's fair. And I'm going to ask -- I'm
10 going to show you the report. We'll talk about the
11 report, but I just -- again, just to try to bifurcate
12 two things. Specifically, my question is, you have no
13 independent recollection of interviewing anybody in
14 relation to the Willie Sorrell shooting in 1995,
15 correct?

16 A. Correct.

17 Q. Okay. And you have no independent
18 recollection of showing any witness any documents in
19 1995, correct?

20 A. Correct.

21 Q. And you have no independent recollection of
22 showing any witness any photographs in 1995, correct?

23 A. Correct.

24 Q. Okay. I asked you earlier about being
25 deposed. You said you had been. How many other

occasions were you deposed on?

A. I believe there was five.

Q. Okay. Were all five of the times that you were deposed -- strike that. Were all the -- were each of the times you were deposed pursuant to work that you did as a Chicago Police officer?

A. Yes.

Q. Okay. Can you, to the best of your recollection, tell me when those depositions occurred, and what cases they were that you were deposed on?

A. Okay. Well, the -- let's see -- the -- the last one would've been the -- the Thaddeus Jimenez case. Then there was a -- a Warfield case. And the other three, I don't give you -- I can't -- couldn't give you names. It was one case where I just had part of the original scene of the homicide scene, and it had nothing to do with the -- any offender being arrested. There was another case where, I believe, it was officers were involved in a fatal traffic accident, where all I did was do a canvas of the area. And then back when I was in patrol, I was involved in a squad car traffic accident.

Q. All right. So the last three that you referred to -- the deposition that you sat for in the squad car accident had to do with being involved in a

1 squad car accident?

2 A. I was the driver of the squad car.

3 Q. Okay. Now, were there any allegations of any
4 other misconduct in that particular case?

5 A. No.

6 Q. Okay. Were you a defendant in that case?

7 A. Yes.

8 Q. All right. And then you referred to one, you
9 said another officer was involved in a fatal --
10 car -- strike that. You said another officer was
11 involved in a fatal traffic accident, correct?

12 A. Yes.

13 Q. Were you a defendant in that case?

14 A. No.

15 Q. Okay. And was your deposition -- were you
16 deposed as a third-party witness in that case?

17 A. Well, I was deposed as to what I did in the
18 investigation.

19 Q. Okay. Were you accused of any misconduct in
20 that investigation?

21 A. No.

22 Q. Okay. And then the first one that -- or I
23 think, the third one you referred to in the -- it may be
24 the first one in chronological order or not, it's how I
25 wrote it down, the deposition involving a homicide scene

1 investigation. Were you a party in that case, a
2 defendant in that case?

3 A. No.

4 Q. Were you accused of any misconduct in that
5 case?

6 A. No.

7 Q. Okay. Then we'll move to the Warfield case.

8 A. Yes.

9 Q. Were you a defendant in that case?

10 A. Yes.

11 Q. Do you have an idea of when that that
12 deposition occurred, what year?

13 A. It -- it might have been before I retired.
14 That didn't go to trial until after I retired, but it
15 was -- the deposition was probably in the
16 early 2000 -- 2000 something.

17 Q. Okay --

18 A. '4 or '5.

19 Q. Sorry?

20 A. Somewhere around 2004 or '5, or something like
21 that.

22 Q. Okay. I apologize for cutting you off.

23 A. That's okay.

24 Q. And were you the only defendant in that case?

25 A. No. There were several other detectives.

1 Q. Was Detective Bogucki a defendant in that
2 case?

3 A. Yes.

4 Q. Were any of the other detectives we've talked
5 about today defendants in that case?

6 A. No.

7 Q. And what were the -- were there allegations of
8 misconduct made against you in that case?

9 A. Well, there were witnesses claimed they were
10 held at Area 5.

11 Q. Okay. So in that case, the witnesses who
12 claimed they were held in Area 5, was there allegations
13 that they were -- they shouldn't have been held, or what
14 was their allegation?

15 A. I guess that was their allegation that -- that
16 they shouldn't have been held, yes.

17 Q. All right. Was there any allegations in that
18 case made against you regarding manipulating witnesses?

19 A. No.

20 Q. Was there any allegations in that case against
21 you regarding manipulating identification procedures?

22 A. No.

23 Q. Was there any allegations in that case
24 regard -- against you regarding fabricating evidence?

25 A. No.

1 Q. Was there any allegations against you in that
2 case regarding causing the wrong person to be arrested
3 and convicted of a crime?

4 A. No.

5 Q. Was there any allegations in that case against
6 you of excessive force?

7 A. No.

8 Q. Have you ever had any allegations of excessive
9 force in your career?

10 A. No.

11 Q. Anything else that you -- that you can recall
12 about what the allegations were against you in that
13 case?

14 A. No, that was -- that's -- that's basically it,
15 yes.

16 Q. Do you -- go ahead.

17 A. Go ahead. I'm good.

18 Q. Do you know what the allegations against
19 Detective Bogucki were in that case?

20 A. It was the same -- same against all the
21 detectives that were sued.

22 Q. Okay. Do you know in that case, the Warfield
23 case, was there any allegations of fabricating of
24 evidence?

25 A. No.

1 Q. Was there any allegations in the Warfield case
2 about manipulating witnesses?

3 A. No.

4 Q. Was there any allegations in that case
5 regarding manipulating identification procedures?

6 A. No.

7 Q. Okay. And then the Jimenez case, you were a
8 defendant in that case I think you said?

9 A. No, I wasn't.

10 Q. You weren't a defendant at any point?

11 A. Initially, I was, but I was dropped as a
12 defendant before it went to trial.

13 Q. Okay. And I didn't work on that case, so my
14 familiarity with it is somewhat limited. But at what
15 point after you were served with the lawsuit, how long
16 did it take before you were dropped as a defendant?

17 A. Oh, it was -- it was a -- a length of time.
18 I don't know, a year -- year or more.

19 Q. Was it -- do you know if it was already at
20 trial -- at trial -- the trial stage?

21 A. It was before trial.

22 Q. Okay. Before you were dropped, when you were
23 still a defendant, do you know what the allegations
24 of -- strike that. Before you were dropped, when you
25 were still a defendant, were there allegations of

1 misconduct against you?

2 A. You know, I don't remember the specific
3 allegations because I -- I had nothing to do with
4 Thaddeus Jimenez. I knew the -- the -- of a second
5 offender being arrested, but it was -- I was just
6 included in it for a while.

7 Q. Okay. And so in that Jimenez case, you
8 arrested one person, and then Detective Bogucki arrested
9 Thaddeus Jimenez; is that correct?

10 A. He initially arrested Thaddeus Jimenez.
11 I wasn't -- I was off on vacation at that time.
12 And then I came back, and we were able to apprehend a
13 second offender in that case.

14 Q. And that's when your involvement occurred?

15 A. Yes.

16 Q. All right. Do you know what the allegations
17 of misconduct against Detective Bogucki were in the
18 Jimenez case?

19 A. I -- I don't recall what all the allegations
20 were.

21 Q. Do you recall Detective Bogucki being accused
22 of manipulating witnesses in that case?

23 A. I -- I -- he may have been. I'm not sure.

24 Q. Okay. Do you recall Detective Bogucki being
25 accused of manipulating identification procedures in

1 that case?

2 A. I don't know.

3 Q. Do you recall Detective Bogucki being accused
4 of fabricating any evidence in that case?

5 A. I don't know.

6 Q. Do you recall Detective Bogucki being accused
7 of causing the wrong person to be arrested for the crime
8 in that case?

9 A. I don't know.

10 Q. Okay. Anything else you can recall about the
11 Jimenez case that you haven't testified to today?

12 A. No.

13 Q. Okay. So I asked you about depositions.
14 You said you were deposed five times. Have you been a
15 defendant in any other civil lawsuits, besides those
16 five occasions?

17 A. No.

18 Q. Okay. Have you ever been a plaintiff in a
19 civil lawsuit where you sued someone else?

20 A. No.

21 Q. How many times have you testified at a civil
22 trial?

23 A. How many times have I testified? Well, the
24 Jimenez case, the Warfield case. I seem to remember
25 another time I -- I testified in federal court regarding

1 a -- some robbery offenders that some other officers had
2 arrested and my -- my participation in -- in conducting
3 lineups for those offenders. I don't remember -- I
4 mean, it's quite a while ago. So I don't remember
5 names, but I did testify in federal court for that.

6 Q. Okay. And that -- and that testimony in
7 federal court on that other occasion, not Warfield,
8 not Jimenez, you were a witness in that case or a party
9 defendant?

10 A. I wasn't a party defendant. I didn't even
11 give a deposition in that case, but I was called to
12 testify as to what I did in the investigation.

13 Q. Okay. Any you don't recall the name of that
14 case?

15 A. No, I don't.

16 Q. Do you recall the approximate year when that
17 occurred?

18 A. Well, I was still working obviously,
19 so I don't know. Could be 20, 30 years ago.

20 Q. Okay. Some point prior to 2006?

21 A. Yes.

22 Q. Okay. And then have you ever had any --
23 during your time as a Chicago Police officer, did you
24 ever have any disciplinary complaints filed against you?

25 A. I can recall -- I -- I don't have any

1 sustained complaints. I recall one CR number or
2 a -- a landlord didn't like the fact that we entered his
3 building, when in fact, his building was a -- a homicide
4 crime scene. So we were exonerated on that.

5 Q. Other than that CR, can you recall the basis
6 of any allegations made against you in any other CRs?

7 A. No. Not that I recall, no.

8 Q. Okay. Did you get a CR related to your role
9 in the Warfield case?

10 A. No.

11 Q. Did you receive a CR related to your role in
12 the Jimenez case?

13 A. No.

14 Q. And you said you've never had any discipline
15 imposed as a result of a complainant made against you as
16 a Chicago Police officer?

17 A. That's correct.

18 Q. Have you ever been accused of falsifying
19 evidence?

20 A. No.

21 Q. Have you ever been accused of suppressing
22 evidence?

23 A. No.

24 Q. Have you ever been accused of coercing a false
25 confession?

A. No.

Q. Have you ever been accused of coercing a false statement?

A. No.

Q. Have you ever been accused of manipulating a witness into giving a false statement?

A. No.

Q. Have you ever been accused of unduly influencing any identification procedures?

A. No.

Q. Have you ever been accused of physical abuse of someone in police custody?

A. No.

Q. Have you ever been accused of any other misconduct that that you can think of that we haven't discussed today?

A. No.

MR. STARR: Okay. Everybody doing okay?

MR. STEFANICH: I guess we might as well take a bathroom break.

MR. STARR: Take a break. Okay.

MR. STEFANICH: Five minutes.

THE VIDEOGRAPHER: We are going off the record.

The time is 11:39 a.m.

(OFF THE RECORD)

1 THE VIDEOGRAPHER: We are back on the record.

2 The time is 11:48 a.m.

3 BY MR. STARR:

4 Q. All right. Mr. Schalk, I want to ask you some
5 general questions about your practice as a Chicago
6 Police Department detective at Area 5. Can you -- can
7 you describe for me, generally, what investigative steps
8 a detective would take in a given shooting homicide
9 investigation?

10 A. You talking about someone who's initially
11 assigned to go out on a scene?

12 Q. Yeah.

13 A. Well, you go out on a scene, speak with any
14 witnesses. You'll coordinate recovering any evidence
15 with the -- the crime lab personnel or evidence
16 technicians that would come out. Might canvas the area,
17 looking for additional witnesses and then attempt to,
18 you know, find out what you can about the -- the victim
19 and, I guess, notify any family members if they don't
20 know already. And continue from there, depending on
21 what the witnesses tell you.

22 Q. Okay. And what happens after that point may
23 involve further interviewing of witnesses, correct?

24 A. Yes.

25 Q. And it may involve interviewing member --

1 family members of the victim?

2 A. Yes.

3 Q. Okay. Any other things that would
4 traditionally happen, routinely happen, after that
5 initial scene investigation when you were assigned to a
6 shooting in homicide?

7 A. Well, if there's evidence recovered, you'd
8 submit the -- any requests that you have to the -- to
9 the crime lab to process whatever the evidence is
10 and -- and then continue it wherever it takes you.

11 Q. All right. And then if you had somebody -- if
12 you identified someone as a suspect, what kind of
13 investigative steps might you take?

14 A. Well, it depends -- it depends on the
15 individual case. You -- you -- you'd probably see if
16 witnesses identify that person as an offender.

17 Q. Okay. So let's talk about that type of case
18 where you have a -- it's a shooting homicide, and you
19 have eyewitnesses to the shooting, and then you identify
20 a suspect. What is your next investigative step after
21 you identify that person?

22 A. Well, again, it depends on how he's identified
23 as a suspect. Frequently, you'd put a photo array
24 together and -- and take that to the witnesses to view,
25 unless this person's in custody, and then you'd want to

1 do a physical lineup.

2 Q. Okay. If they're not in custody, you might do
3 a photo array where you take a photo array out to the
4 witness; is that correct?

5 A. Yes.

6 Q. Okay. Would you also have the witness come to
7 the area to view a photo array?

8 A. At times. Whatever's convenient for the
9 witness.

10 Q. All right. And so how would you go about
11 assembling a photo array?

12 A. Well, obviously you'd have a photo of --
13 however you'd have a photo of a suspect.

14 Q. Okay.

15 A. You'd -- generally, that would be a police
16 photo.

17 Q. Okay.

18 A. And you then -- I'd then look for other photos
19 with some similar characteristics. Generally, four or
20 five other photos to put in a group.

21 Q. Okay. When you said that it would be a police
22 photo, what does that mean?

23 A. Well, if -- if the suspect had been previously
24 arrested, they'd have a photo of him on file.

25 Q. Okay. Like a mugshot?

1 A. Yes.

2 Q. Okay. If the person -- if you had a suspect
3 in mind, but they had not been previously arrested, and
4 so you didn't have any police photos, where would you
5 get photos of that person?

6 A. Well, you could -- possibly from other family
7 members, if they would give it to you. Or you know, it
8 might even -- you could search his background. If he's
9 never been in prison, never been arrested, then you'd
10 have to, you know, do what you can. If you have
11 probable cause to arrest him, then you could pick him up
12 and do a physical lineup.

13 Q. Okay. And I'm, again, talking about that '95
14 to 2002 period, generally. I imagine today, you might
15 look on the internet for a photo, correct?

16 A. I -- I guess you possibly could.

17 Q. Did you have any occasion during your career,
18 before you retired in 2006, where you couldn't -- you
19 didn't have a police photo of a suspect and you had to,
20 like, search the internet for the person's name, see if
21 there's any photos on the internet of that person?

22 A. No, I don't recall doing that.

23 Q. Okay. Was it the default to use a police
24 photo, a mugshot of the suspect if there -- one existed?

25 A. I don't know what you mean by default.

1 Q. Do you know what the word default means?

2 A. Well, I don't know what you mean with regards
3 to a photo. I mean...

4 Q. Sure. So I'm talking about doing a photo
5 array, conducting a photo array, and I'm asking about
6 your practice. And you said that you would get a -- you
7 would look to see if there's a police photo of the
8 person, and then you would look to see for additional
9 filler photos, correct?

10 A. And the easiest for us to obtain would be a
11 police photo, yes.

12 Q. Okay. Was it your practice to look first to
13 see if there was a mugshot on file of that person?

14 A. Right. You -- you'd -- you'd like to know if
15 this -- if your suspect has a criminal background.

16 Q. Okay.

17 A. And I -- go ahead.

18 Q. I didn't mean to interrupt you. Okay.
19 So you'd like to know if your suspect has a criminal
20 background. Why is that?

21 A. Well, to -- to know who you're dealing with,
22 you know.

23 Q. Okay. So you'd want to know if they had any
24 criminal history, if they've been arrested for anything
25 similar; is that correct?

1 A. Yes.

2 Q. Okay. And why would you want to know that?

3 A. Well, it goes to showing what type of
4 individual this is.

5 Q. Okay. So if somebody had been previously
6 arrested for another shooting, it would indicate to you
7 that there was a likelihood that they were involved in
8 the shooting that you're looking at them as a suspect
9 for?

10 A. Not necessarily, but it certainly indicates
11 the type of person he is.

12 Q. Okay. Would you -- would you pull their
13 criminal history, like, in a document form?

14 A. Yes.

15 Q. Okay. And how would you go about doing that?

16 A. Well -- it -- well, it depends what years.
17 In -- in going back, you had to send in a request and
18 have it sent to you, or go down to 11th and State and
19 pick it up. And then when we got into the computer age,
20 where you could -- you could print them out from the
21 computer.

22 Q. All right. So do you know when that started,
23 when you were able to start printing them off the
24 computer directly?

25 A. No, I'm not sure.

1 Q. All right. So before you were able to print
2 them directly from the computer, you had to request them
3 from somewhere; is that correct?

4 A. Yes. From Headquarters at 11 and State, yes.

5 Q. Okay. And was there a form you had to fill
6 out to send to Headquarters?

7 A. Yes. Unless you wanted it immediately and
8 take a ride down there and fill the form out there.

9 Q. Uh-huh. Do you know what the form was called?

10 A. No, I don't.

11 Q. Was there a specific section at Headquarters
12 that you would get the criminal history from?

13 A. It's -- well, it was either the identification
14 section or the records section. I'm not sure which one
15 was.

16 Q. Was it both, or one or the other?

17 A. One or the other.

18 Q. Okay. All right. That's the criminal history
19 we were just talking about. Where would you get the
20 photos from?

21 A. Again, that's -- that was from the graphic
22 arts section at 11th and State.

23 Q. Okay. So if you wanted to do a photo array
24 and -- you would request photos from the graphic arts
25 section at 11th and State; is that correct?

1 A. Yes. Before we could pull them up on the
2 computer, yes.

3 Q. Okay. And was there a form that you filled
4 out to request those photos?

5 A. Yes.

6 Q. Okay. I'm not familiar with the graphic art.
7 Was it -- was it a section of the headquarters?

8 A. Yes.

9 Q. Okay. In the same way the identification
10 section is a section?

11 A. Yes.

12 Q. All right. Okay. How did you -- how would
13 you go about determining whether or not the suspect
14 already had a police photo on file?

15 A. Well, obviously, when -- when we got into the
16 computer age, again, we could bring that right up.
17 Before that, I think we had to call down there and have
18 them run a -- a name check of the person.

19 Q. Okay.

20 A. And then they'd come back and tell us and say
21 here's his IR number.

22 Q. Okay. So in a circumstance like I previously
23 described, where you had a suspect in mind, and you had
24 an eyewitness that you wanted to show a photo array to,
25 your first step would be to call to determine if there's

1 a name check, that they have a photo on file?

2 A. Well, yeah. I mean, to -- to see what his
3 criminal record was. And if they -- naturally,
4 if he -- he had a criminal record, there'd be a photo on
5 file.

6 Q. Okay. And where would you -- I'm sorry if I
7 missed that, but where would you call?

8 A. I believe it was the identification section.

9 Q. Okay.

10 A. Again, identification section or records
11 section.

12 Q. All right. So you make a phone call to either
13 the identification section or the records section.
14 And you'd give them the name of the suspect?

15 A. Yes.

16 Q. And then you'd ask them to check and see if
17 there's a criminal history?

18 A. I believe so. Again, we're going back quite a
19 number of years, but you know, I believe that was the
20 way it was done.

21 Q. Okay. And then if there was a criminal
22 history involving the Chicago Police Department, there
23 wouldn't be -- necessarily be a file on photo, correct?

24 A. Right.

25 Q. I'm sorry. There wouldn't necessarily be a

1 photo on file, correct?

2 A. Right. You'd have an IR number,
3 identification records number.

4 Q. Okay.

5 A. Once you have his record, and then there'd be
6 a -- a photo associated with that IR number.

7 Q. Okay. And you would then fill out that form
8 requesting the photo and the -- fill out the form
9 requesting the criminal history, correct?

10 A. You could. Yeah. Again, if you wanted it
11 immediately, you -- you go down there and do it,
12 but --

13 Q. But if you went down there, you had to fill
14 out the form anyways, right?

15 A. Same forms. Yeah.

16 Q. Okay. So sometimes there'd be a lag in time,
17 depending on how, you know, how urgent you were to get
18 the documents, correct?

19 A. Correct.

20 Q. Okay. When you say a name check, is that just
21 literally, like, someone's just checking to see if the
22 name's in the system, or is there a -- is there a record
23 that's created when you ask for a name check?

24 MR. STEFANICH: Objection. Foundation.

25 A. Yeah, I --

1 MR. STEFANICH: You can answer. Sorry.

2 A. I don't know what you mean by that.

3 BY MR. STARR:

4 Q. Fair. That's fair. So when you requested a
5 photo, you had to fill out a form. When you requested a
6 criminal history, you fill out a form. Was there
7 anything that you needed to fill out in order to get a
8 someone at the identification section or record section
9 to look someone up to see if they were in the system?

10 A. You know, I -- I don't believe so, as long as
11 you -- you called on the -- the police lines and
12 not -- not a public phone.

13 Q. Okay. That makes sense. Okay. So then in
14 that scenario where you have a suspect in mind and a
15 witness that you want to show a photo array to, after
16 you get the photo of the suspect, how do you go about
17 getting the photos of the fillers for the photo array?

18 A. Well, a lot of times, they'd have a whole
19 collection of photos from other cases, and we'd search
20 through that and take out the photos we felt were
21 similar.

22 Q. When you say you would have, who are you
23 referring to?

24 A. At -- at Area 5. Some of it might be my
25 personal file, some might -- might be in the Area 5

1 photos.

2 Q. Okay. So you would not request the
3 photo -- additional photos from the identification or
4 record section, right?

5 A. Well, we could, but you'd have to know
6 the -- how the photos looked, if they were similar
7 enough to put them in -- in the photo, right?

8 Q. So -- that's fair. And so your practice
9 generally was, you would get the photo of the suspect
10 from the record section or identification section. Once
11 you had that photo, you would get other photos, either
12 from your personal collection, or from Area 5's
13 collection of photos?

14 A. Generally, yeah.

15 Q. Okay. And what criteria would you personally
16 apply, what was your practice to picking out who to
17 choose as a filler photograph?

18 A. Just similar physical characteristics. You
19 know, a similar somewhat age -- age range, just, you
20 know, somewhat similar in the -- the height and weight
21 and other physical characteristics. And of course race.

22 Q. Okay. Anything else that you would -- any
23 other criteria that you would apply, other than height,
24 weight, age range -- age range, and race?

25 A. Well, if there was something that was, you

1 know, incredibly unique about a photo from someone's
2 facial features, and you know, if you had a big tattoo
3 on his face and your suspect didn't, obviously, you
4 wouldn't use that photo, but...

5 Q. Okay.

6 A. It -- it's similar characteristic.

7 Q. Okay. So you would never -- if the suspect
8 had a tattoo on his face, you would choose other people
9 who had tattoos on his face as well; is that correct?

10 A. You try -- you certainly tried to, yes.

11 Q. Okay. Do you know if -- was there any Chicago
12 Police Department policy that dictated how you were
13 supposed to go about conducting a photo array?

14 A. I don't recall if anything was specifically
15 written. You know, when we were promoted to detective,
16 we spent a month at the academy training. There could
17 have been something then. And -- and of course, we
18 learned from working with our detectives also.

19 Q. Okay. So you may have learned stuff at
20 the -- at the detective academy about how to conduct a
21 photo array?

22 A. It's possible. I don't -- I don't recall.

23 Q. Okay. And you also learned on the job from
24 other detectives about how to conduct a photo array?

25 A. Yes.

1 Q. Okay. Do you have any specific detective that
2 you know that you learned how to conduct a photo array
3 from?

4 A. Not that I recall, no.

5 Q. All right. And so I was asking about, like.
6 the initial investigative steps you would take
7 as a detective assigned to a homicide, and you kind of
8 gave me a little overview. Is there any different
9 approach that you would take when you were assigned to a
10 cold case?

11 A. Well, you -- you'd want to review all the
12 reports that -- and everything in the file you'd want to
13 review first, and then decide -- generally, you'd want
14 to -- you'd like to re-interview witnesses and -- and
15 see where you go from there.

16 Q. Okay. So it was your practice, the first step
17 you would take, first investigative step when you were
18 assigned a cold case was to read everything in the file,
19 correct?

20 A. Yes.

21 Q. And that was very important, right?

22 A. Yes.

23 Q. And why was that important?

24 A. To know what has been done previously in the
25 case.

1 Q. Okay. Because detectives had an obligation to
2 document their investigative work during the course of
3 investigation, right?

4 A. They should, yes.

5 Q. Okay. And you would assume that the
6 detectives who worked the case originally would've done
7 their job correctly and documented all the relevant and
8 important information they learned during the course of
9 their investigation, right?

10 A. I would hope so.

11 Q. Okay. Would you do that when you were a
12 detective?

13 A. Yes.

14 Q. Okay. So you read everything in the file, and
15 then after you -- after you're done -- after you were
16 done reading everything that was in the file, what was
17 your next investigative step?

18 A. Well, depends what -- what we saw on the file.
19 I mean, generally -- generally, it's re-interviewing the
20 witnesses, see what they -- what they say at that point.

21 Q. Was it your practice to prioritize any
22 witnesses to re-interview?

23 A. There might be witnesses that were more
24 important, or saw -- saw more than other witnesses --

25 Q. Okay.

1 A. -- that you -- you'd rather talk to first.

2 Q. So it was important what the witnesses had
3 previously told the other detectives, the original
4 detectives on the case -- strike that. That was poorly
5 phrased. Was it important to you, as a matter of
6 practice, to identify what the previous witnesses told
7 the first set of detectives who were working on the
8 case?

9 A. Well, I -- I wanted to know what -- what was
10 in the file and what they had said previously, sure.

11 Q. Okay. So it's important to identify what
12 previous witnesses had said they saw, correct?

13 A. It's important to -- to know what they had
14 said, yes.

15 Q. Okay. And then why would you go about -- to
16 re-interview them?

17 A. Well, just to -- to see if, you know, if they
18 were -- if they were -- one, if they were able to still
19 find the witnesses, and to see what they were saying
20 now, as -- as -- as far as what they saw.

21 Q. Okay. So if you were able to find witnesses
22 on a cold case, you would want to re-interview them to
23 see if they had changed their stories; is that correct?

24 A. Well, not necessarily change their stories,
25 just to -- to -- to understand what -- what happened at

1 the -- the time the homicide occurred.

2 Q. Okay. Were you cautious regarding a witness's
3 memory when you were re-interviewing a witness from a
4 cold case?

5 MR. STEFANICH: Objection. Form.

6 A. I don't know about being cautious.
7 I just wanted to hear what they had to say.

8 BY MR. STARR:

9 Q. Okay. Did you take into consideration the
10 fact that time had elapsed when you were
11 re-interviewing witnesses on a cold case?

12 A. I don't know that I took that into account.
13 I just wanted to hear what they had to say.

14 Q. All right. Were you concerned at all, as a
15 detective interviewing -- strike that. Were you
16 concerned at all, as the detective investigating cold
17 cases, that the passage of time may have an effect on
18 the witness's memory that you were re-interviewing?

19 A. Well, that's -- that comes down to the
20 individual witness. Some will never forget what they
21 saw, so...

22 Q. Okay. Did you make a practice of doing
23 anything to test the witness's memory when you were
24 re-interviewing them?

25 A. I don't know what you mean by testing their

1 memory.

2 Q. Did you do anything to evaluate whether a
3 witness had a -- the same memory that they had when they
4 were first interviewed?

5 A. Well, you talk to them and see what they had
6 to say at that point, and -- and you knew what they said
7 in previous reports, so...

8 Q. So you would compare what they were telling
9 you, versus what they had previously said in previous
10 reports; correct?

11 A. Yes.

12 Q. Okay. And why would we -- what would be the
13 point of that?

14 A. Well, just see if there's any discrepancies
15 and how reliable they are.

16 Q. All right. And if there were discrepancies,
17 would that indicate to you that they may be unreliable?

18 A. Depending on the witness and what -- what the
19 discrepancies were.

20 Q. If there were discrepancies, would that
21 indicate to you that the witness's memory may be
22 adversely affected?

23 A. It all depends on what they're saying.

24 Q. Okay. Would -- if there were discrepancies
25 between what they told the first set of detectives and

1 what they told you, would that indicate to you that the
2 passage of time may have had an impact on their memory?

3 A. I don't know that it specifically -- that
4 would specifically occur to me, as far as the passage of
5 time, I will just want -- want to question them as to
6 why they said something different in the previous
7 interview.

8 Q. Okay. So did you not make it a priority to
9 be aware of the fact that the passage of time may have
10 affected a witness's memory from when they first were
11 interviewed to when you re-interviewed them on a cold
12 case?

13 MR. MICHALIK: Object to form.

14 A. I don't know that I thought about the time
15 period affecting their memory. I'd just talk to them
16 and -- and see what they did remember.

17 BY MR. STARR:

18 Q. Okay. All right. Do you know if there was
19 any Chicago Police Department policies that applied to
20 how you were supposed to work a cold case?

21 A. I don't recall seeing anything in writing.

22 Q. Okay. Other than that, what you described as
23 your practice, were you aware of any other practice
24 expectations for detectives working cold cases?

25 A. I don't know what you mean by expectations.

1 Q. Okay. Were there -- were there any
2 expectations that you were aware of that applied to
3 detectives who were working on a cold case?

4 MR. MICHALIK: Object to form, foundation.

5 A. Again, I -- I don't know expectations.
6 I don't know what that means. I -- no, I don't know
7 what that means.

8 BY MR. STARR:

9 Q. Okay. Did you ever have any conversations
10 with any supervisors other than -- strike that.
11 You previously testified that you, at some point,
12 had to talk to a supervisor who assigned you to work
13 cold cases, right?

14 A. Yes.

15 Q. Do you recall having any other conversations
16 with supervisors about how to go about working a cold
17 case?

18 A. I mean, we would -- we'd be in touch with
19 supervisors, telling them what we were do -- what we
20 were doing. They may have some input as -- as to what
21 to do on the case, or may not, but keeping them informed
22 that -- that we were working and what we were doing on
23 the case.

24 Q. Were you ever given any directives from any
25 supervisors about how to work a cold case?

1 A. I don't remember any specific directives as to
2 how to do it.

3 Q. Okay.

4 A. We were -- I mean, we're detectives for a
5 number of years, we -- we knew how to work cases.

6 Q. Okay. Did you -- were you ever trained
7 specifically on how to work on a cold case?

8 A. No.

9 Q. Generally speaking, as a Chicago Police
10 Department detective, were you expected to conduct
11 identification procedures during homicide investigations
12 that involve witnesses and suspects?

13 A. Yes.

14 Q. We talked about a photo array and we talked
15 about a lineup. Were there any other identification
16 procedures that you ever participated in or conducted
17 during your time as a Chicago Police Department
18 detective?

19 A. I believe that's all the identification
20 procedures there could be.

21 Q. All right. Do you know if there -- if
22 the -- if any Chicago Police Department policies
23 regarding identification procedures changed from
24 1995 till 2002?

25 A. Not that I remember.

1 Q. Did you change your practice about how you
2 went about conducting identification procedures between
3 1995 and 2002?

4 A. No, I don't believe so.

5 Q. All right. I may have asked you this,
6 but I'm going to ask it again, and I apologize if I
7 have. Were there any specific policies in place at the
8 Chicago Police Department in 1995 regarding how to
9 conduct photo arrays?

10 A. If there was, I don't recall. There could be
11 some directives, but I don't recall.

12 Q. Would you have been familiar with the policy
13 as it was in 1995?

14 A. Well, in 1995, I would've been familiar,
15 whatever policy there was.

16 Q. Okay. And would you have made -- would you
17 have ensured to act pursuant to whatever the policy was?

18 A. Yes.

19 Q. Okay. And then the same question for 2002,
20 are -- were there any policies in 2002 that applied to
21 how to conduct photo arrays?

22 A. I -- I don't recall any specific policies.

23 Q. If there were policies in place in 2002 about
24 how to conduct photo arrays, would you have been aware
25 of them?

1 A. Yes.

2 Q. And would you have adhered to them in 2002?

3 A. Yes.

4 Q. Okay. What about -- were there any policies
5 in place in 2002 regarding how to conduct a lineup?

6 A. I'm sure there was some training as to how to
7 do lineups.

8 Q. Besides training, I'm wondering if -- do you
9 know if there were any Chicago Police Department written
10 policies that applied to how to conduct lineups?

11 A. Again, there could have been, I don't -- I
12 don't recall.

13 Q. All right. If there were, in fact, policies
14 in place in 2002 regarding how police detectives were to
15 conduct lineups, would you have been familiar with them
16 in 2002?

17 A. Yes.

18 Q. And would you have adhered to them in 2002?

19 A. Yes.

20 Q. Were there any other practices that you used
21 when you conducted any identification procedures that
22 were not memorialized in a policy that you haven't
23 testified to today?

24 MR. MICHALIK: Object to the form.

25 A. Yeah. I'm a little confused with that

1 question, but...

2 BY MR. STARR:

3 Q. Have -- is there any other practices that you
4 generally employed when you conducted identification
5 procedures that you haven't told us about today?

6 A. I don't believe so, no.

7 Q. Okay. Do you know if there's anything in
8 Chicago Police Department policy, or Chicago Police
9 Department practice, as you practiced it, designed to
10 avoid a situation where an officer conducting
11 identification procedure suggests to a witness who to
12 identify?

13 MR. MICHALIK: Object to the form.

14 A. I did -- what did you ask about?
15 Something -- what was the first part of that question?

16 MR. STARR: Can you read it back?

17 (REPORTER PLAYS BACK REQUESTED QUESTION)

18 A. The -- well, no one -- certainly, no one would
19 ever do that. And I don't know if it was specifically
20 written down to say, no, don't do that, but it could
21 have been. But I don't know.

22 BY MR. STARR:

23 Q. Okay. Why do you say that certainly no one
24 would ever do that?

25 A. Well, you wouldn't want to influence an

1 identification.

2 Q. You're talking generally, right?

3 A. Yes.

4 Q. Do you know for a fact that no Chicago Police
5 Department personnel ever unduly influenced an
6 identification procedure?

7 A. Not to my knowledge.

8 Q. And you're not sure if the policy had any
9 information in it about how to avoid doing that,
10 correct?

11 A. There may have been. I -- I don't recall.

12 Q. Did any supervisor ever instruct you on things
13 to make sure you didn't do to influence an
14 identification procedure?

15 A. I don't recall that.

16 Q. Were you ever trained on things to avoid doing
17 to best put yourself in a position not to influence an
18 identification procedure?

19 A. I mean, there -- there may have been some
20 training regarding lineups and that might have included
21 some of that. I don't know.

22 Q. Okay. Did anyone ever say to you, hey, when
23 you're doing a photo array, don't point at the photo of
24 the suspect?

25 A. I don't think they had to specifically tell us

1 that, no.

2 Q. Okay. Did anyone ever tell you, hey, when
3 you're doing a photo array, don't have one photo that's
4 in color, and all the rest be black and white?

5 A. Well, it's probably pretty much common
6 knowledge not to do that.

7 Q. But didn't anyone ever tell you that?

8 A. I don't remember. I don't think they had to
9 specifically tell me that.

10 Q. So no one ever told you that, correct?

11 A. I don't recall that. No.

12 Q. And no one ever told you not to point at a
13 photo when you're doing a photo array, correct?

14 A. I don't recall anybody specifically telling me
15 that.

16 Q. Okay. And that applied to both 1995 and 2000,
17 correct? 2002?

18 A. Yes.

19 Q. Was there anything that you specifically did
20 as a matter of practice to avoid a situation where
21 there's an identification procedure that you're
22 conducting or participating in, and -- strike that, let
23 me rephrase it. Was there anything that you ever did as
24 a matter of your practice to avoid a situation where the
25 identification procedure is unduly suggestive?

1 MR. MICHALIK: I'm going to object. I think
2 that's been asked and answered to some extent.

3 A. Well, I -- one thing I can think of offhand is
4 you -- you don't have witnesses together looking at a
5 lineup or a photo array. They do it separately.
6 And -- and they don't speak to each other after one has
7 viewed the lineup or the photo array.

8 BY MR. STARR:

9 Q. Why would you not want to have more than one
10 witness viewing a photo array at the same time?

11 A. We want -- I don't want one witness
12 influencing another witness.

13 Q. All right. And you would make sure that they
14 wouldn't speak to each other before after one
15 participated and another one was set to participate?

16 A. Not -- yeah, not until they're all done with
17 the viewing the -- the array or lineup.

18 Q. And why would you make that as a matter of
19 practice, why would you do that?

20 A. Again, so one witness wouldn't influence the
21 other witness.

22 Q. Anything else that you can recall specifically
23 doing to avoid situations where a witness might be
24 influenced about who to choose?

25 A. Well, again, like we had spoke earlier, you

1 don't want the -- the witness to -- to view the person,
2 a single person, like as -- as to -- like in the -- in
3 the interview room without -- before a single lineup.

4 Q. Okay. Anything else you can think of besides
5 that?

6 A. Not that I recall.

7 Q. All right. Did you ever have an occasion in
8 your entire career where you showed a witness a single
9 photograph of a suspect?

10 A. I don't recall any specific case. I would
11 think the only way that would be done is if the person
12 knew the suspect intimately, like a spouse, you know, a
13 sibling, a child. It'd have to be something like that
14 before you would ever do just the one photo.

15 Q. So in a situation where the witness intimately
16 knew the suspect, it was okay to show them a single
17 photograph; is that correct?

18 A. Yes.

19 Q. Okay. Do you know if there was a Chicago
20 Police Department policy that made that an acceptable
21 practice?

22 A. I don't know if -- if there was anything
23 written about that, or if it's just something I learned
24 from other detectives, talking to state's attorneys.

25 Q. And as a matter of practice, did you show

1 single photographs to witnesses who said they were
2 intimately familiar with the suspect?

3 A. You know, I don't recall a specific case.
4 It's -- it's possible, but I don't recall.

5 Q. Okay. And then you kind of gave me like a
6 list of people that might be intimately familiar with a
7 suspect. You said a spouse or a child. Is there
8 anybody else who may fall into that category of being
9 intimately familiar with the suspect, that you would
10 then possibly show a single photograph to?

11 A. I -- I think that would be about the only
12 reasons that I would.

13 Q. Okay. What if a witness told you, I committed
14 a crime with this person -- or strike that. What if the
15 witness told you, I committed the crime with this
16 person, would that qualify that person as being
17 intimately familiar with the suspect?

18 MR. MICHALIK: Object to form, incomplete
19 hypothetical.

20 A. Not to the point where I would just show one
21 photo, no.

22 BY MR. STARR:

23 Q. Okay. Could you ever imagine a situation
24 where one person told you, I was involved in the crime,
25 I was there when the crime occurred, I know the suspect,

1 and you showed that person a single photo of the
2 suspect?

3 MR. MICHALIK: Object to form.

4 A. No, I don't think so. I think I'd still
5 would -- would do a photo array.

6 BY MR. STARR:

7 Q. How come?

8 A. I want to be sure about the identification.

9 Q. Okay. Are you -- is your -- is your point in
10 showing a photo array to an individual like that, who
11 says that they know the suspect, they did the crime with
12 the suspect, to test the veracity of whether or not
13 they, in fact, know that person?

14 A. Well, if -- if the person they're -- they're
15 talking about is, in fact, the person in this photo.

16 Q. Okay. So you would do a photo array with
17 somebody who is admitting to being involved in a crime
18 with the suspect in order to test whether or not they
19 could identify the suspect?

20 A. Yes.

21 Q. All right. Any other people that may fit in
22 that category, besides the ones you've identified?

23 A. I don't think so. I, you know, I think
24 anybody else, I -- I'd want to do a photo array.
25 I think the state's attorneys would want me to do a

1 photo array.

2 Q. And you were -- you were thinking about what
3 the state's attorney wanted you to do as a Chicago
4 Police officer when you were conducting identification
5 procedures?

6 A. Well -- well, they're the ones that charge
7 somebody with murder. We have to go to them, we have to
8 present the case to them, and they -- they'll tell us
9 what they feel needs to be done, if there's more needs
10 to be done. So yeah, we want -- it's important to get
11 the state's attorneys involved.

12 Q. Okay. Can you say with any certainty that you
13 never showed an individual photo to a witness who said
14 they were intimately familiar with a suspect who wasn't
15 a child or a spouse?

16 A. I don't believe I ever did that, no.

17 Q. As a Chicago Police detective, were you
18 required to document all the identification procedures
19 that you conducted or participated in?

20 MR. MICHALIK: Object to form.

21 A. Yes. You want to document everything you do
22 in an investigation.

23 BY MR. STARR:

24 Q. Okay. So how would you document a photo array
25 that you conducted in which the witness was unable to

1 identify a suspect?

2 A. I'd do a report as to showing that person a
3 photo array, of -- and of course, who the suspect was in
4 that photo array.

5 Q. What, kind of like, a sub report? What kind
6 of report would you do?

7 A. Yes, generally.

8 Q. All right. Was a police report required in
9 all -- in all such circumstances where you'd conduct an
10 identification procedure?

11 MR. MICHALIK: Object. Foundation.

12 A. It -- it's the proper thing to do in an
13 investigation.

14 BY MR. STARR:

15 Q. Was it -- did you make it a practice to do
16 a -- some sort of police report in every circumstance
17 where you conducted any sort of identification
18 procedure?

19 A. Well, I'd certainly want to do that, because I
20 wouldn't want anybody duplicating my work, and --

21 Q. So -- I'm sorry, just for clarity's sake, so
22 is it correct to say that you made -- strike that. Is
23 it correct that you created a police report documenting
24 every single photo identification procedure you ever
25 conducted?

1 A. I believe so.

2 Q. Okay. Would you -- if you conducted a photo
3 array and a witness was unable to identify a suspect,
4 you said that you would make a report that documented
5 who the suspect was and the fact that they were unable -
6 - the witness was unable to identify that suspect?

7 A. Yes.

8 Q. Would you do anything to document who the
9 other photographs were of, who the fillers were, during
10 that identification procedure?

11 A. We weren't required to do anything when there
12 was no identification made of a photo array. We weren't
13 required to do anything, as -- as far as inventorying
14 those photos or -- or documenting who else was in that
15 photo array.

16 Q. How do you know that you were not required to
17 document those photos?

18 A. I -- I believe there was policy on that,
19 or -- or what I had learned.

20 Q. Okay. So do you -- do you -- strike that.
21 Is your testimony that you think that there was a policy
22 that indicated that if you conducted an identification
23 procedure and used photos during a photo array that was
24 negative, that you did not need to document the filler
25 photos?

1 A. Yes.

2 Q. Okay. And as a matter of practice, did
3 you -- if you conducted a -- strike that. As a matter
4 of practice, if you conducted a photo array
5 identification procedure that turned out to be negative,
6 would you never document the photos that you used as
7 fillers?

8 A. Yes, I wouldn't document the fillers in a
9 negative photo array.

10 Q. Okay. So what you would document is who the
11 suspect photograph was, correct?

12 A. Right.

13 Q. And who the witness was, correct?

14 A. Yes.

15 Q. And the fact that there was a negative
16 identification?

17 A. Yes. And -- and -- and why this person was
18 put in the photo array to begin with.

19 Q. Okay. And that practice that you filed,
20 you filed in 1995?

21 A. Yes.

22 Q. And you also filed it in 2002?

23 A. Yes.

24 Q. And do you think the policy that indicated
25 that you did not need to document negative photo arrays,

1 did that apply in '95?

2 A. Yes.

3 MR. MICHALIK: Object to the form of that
4 question.

5 THE WITNESS: I'm sorry.

6 BY MR. STARR:

7 Q. Did it also apply in 2002?

8 MR. STEFANICH: Objection to form.

9 MR. MICHALIK: Same objection.

10 A. Yes.

11 BY MR. STARR:

12 Q. In a -- what about a circumstance where you
13 conducted a photo array, and a witness identified a
14 filler, what would you do?

15 A. I would document that.

16 Q. You would document the fact that the witness
17 identified the filler?

18 A. Yes.

19 Q. Would you document who the filler was?

20 A. Yes.

21 Q. Okay. Were you required by any Chicago Police
22 Department policy to do that, as far as you understood
23 it?

24 A. Again, I don't recall specific -- any specific
25 policy on that, but that's what I understood as what we

1 should do.

2 Q. Okay. And that was your practice, correct?

3 A. Yes.

4 Q. If there was a policy in 1995 that said that
5 if you conducted a photo array and a witness identified
6 a filler as being the perpetrator, you would've been
7 aware of that policy and followed it, correct?

8 A. Yes.

9 Q. Is this also true for 2002?

10 A. Yes.

11 Q. Okay. Did you ever have a situation where you
12 showed a photo array to a witness and they identified a
13 filler, and not this person you thought was a suspect?

14 A. You know, I don't recall that. There were
15 certainly plenty of times where they identified no one,
16 but I don't recall them identifying somebody else in
17 the -- in the photo array.

18 Q. It could have happened, you just don't
19 remember it, correct?

20 A. I'm pretty sure it didn't happen or I'd
21 remember that.

22 Q. Okay. Do you know if there's any Chicago
23 Police Department policy about whether or not you were
24 allowed to show any witness a single photograph of a
25 suspect?

1 A. I don't know of that policy, no.

2 Q. Okay. Would you agree that showing a witness
3 a single photograph of a suspect would be something that
4 would likely result in a bad identification?

5 MR. STEFANICH: Objection. Foundation.

6 MR. MICHALIK: And form. It's an incomplete
7 hypothetical.

8 A. Well, possibly. It's just something you
9 wouldn't want to do.

10 BY MR. STARR:

11 Q. Why not?

12 A. You'd want a -- a fair identification.

13 Q. Why would showing a single photograph to a
14 witness not result in a fair identification?

15 MR. STEFANICH: Objection. Form. Objection,
16 foundation. You can answer.

17 A. Why would it be? Because you want to make
18 sure this witness is identifying the right person.

19 BY MR. STARR:

20 Q. But why would showing them a single photograph
21 preclude that?

22 MR. STEFANICH: Objection. Foundation.
23 You can answer.

24 A. Well, whether they'd feel they'd want to
25 identify this single photograph, I don't know, but it's

1 just not something you should do.

2 BY MR. STARR:

3 Q. Okay. Do you think that showing a witness a
4 single photograph of a suspect, with no other
5 photographs of fillers, would unduly influence that
6 witness?

7 MR. STEFANICH: Objection. Form, foundation.

8 You can answer.

9 A. Depends on the witness. It's possible.

10 BY MR. STARR:

11 Q. So not in every circumstance, it wouldn't
12 unduly influence a witness, correct?

13 MR. STEFANICH: Objection. Form, foundation.

14 You can answer.

15 A. Again, it depends on the witness.

16 BY MR. STARR:

17 Q. Did you conduct or participate in any witness
18 photo arrays during your investigation of Willie
19 Sorrell's homicide?

20 A. Yes.

21 Q. And you know that from reviewing the reports?

22 A. Yes.

23 Q. You don't have any independent recollection of
24 doing any photo arrays, correct?

25 A. Correct.

1 Q. Did you conduct any lineups during the
2 Willis -- Willie Sorrell homicide investigation?

3 A. Yes.

4 Q. And you know that from reviewing your reports,
5 correct?

6 A. Correct.

7 Q. You have no independent recollection of
8 conducting any lineups, correct?

9 A. Correct.

10 Q. Okay. Do you know how many times you
11 conducted a photo array during the Sorrell homicide
12 investigation?

13 A. It's -- yes. Well, back in '95, we did
14 a -- a photo array with Ed -- with Edward Cooper, with a
15 suspect known as Fletcher Clinton, I believe. Then in
16 '02, a photo array with Terry Rogers. And then in March
17 of '02, a photo array with Sheenee Friend, oh, also
18 in -- in February of '02, a photo array with -- with
19 Edward Cooper.

20 Q. The one that you conducted with Terry Rogers,
21 is it your understanding that that took place in
22 February, 2002?

23 A. Yes.

24 Q. Do you have any independent recollection of
25 conducting any of those four photo arrays that you just

1 testified to?

2 A. No --

3 MR. STEFANICH: Objection --

4 A. -- I don't.

5 MR. STEFANICH: -- asked and answered.

6 BY MR. STARR:

7 Q. So the entire basis of your knowledge that
8 those photo arrays occurred comes from reviewing reports
9 today, correct?

10 MR. STEFANICH: Objection. Asked and answered.

11 You can answer.

12 A. Yes.

13 BY MR. STARR:

14 Q. Okay. You said that -- the 1995 photo array
15 with Edward Cooper, correct?

16 A. Yes.

17 Q. Do you know what month that was in?

18 A. I believe it was in March of '95.

19 Q. Okay. And I think you said that that photo
20 array involved a photograph of someone by the name of
21 Fletcher Clinton?

22 A. Yes.

23 Q. How do you know that, sir?

24 A. From reading the report.

25 Q. Which report, do you know?

1 A. It's a -- a typed report from March of '95.

2 Q. Okay. And we're going to look at the reports.
3 I'm not, like, trying to trick you or anything. I just
4 want to make sure if you have it. If you -- as you sit
5 here today, do you recall looking at a March of 1995
6 type report that indicates to you that you did a photo
7 array with Edward Cooper, in which you showed him a
8 photograph of someone named Fletcher Clinton; is that
9 correct?

10 A. Did a photo array which included Fletcher
11 Clinton, yes.

12 Q. Okay. Do you know what other photos that you
13 allegedly showed Mr. Cooper during that photo array?

14 A. No, I don't.

15 MR. MICHALIK: Object to the form of the
16 question.

17 A. No, I don't.

18 BY MR. STARR:

19 Q. Okay. And do you know who Fletcher Clinton
20 is?

21 A. No.

22 Q. Do you know how you came to show a photo array
23 to Edward Cooper that involved a man by the name of
24 Fletcher Clinton?

25 A. Well, according to the report, Detectives

1 Rutherford and McDonald asked us to show that photo
2 array to Edward Cooper.

3 Q. Okay. Is it your understanding that
4 the -- Detectives McDonald and Rutherford provided you
5 with the photos for the photo array?

6 A. I don't recall. I assume that they -- they
7 had at least Fletcher Clinton's photo. Whether they
8 gave us other photos, I don't know.

9 Q. Okay. Do you know, was Fletcher Clinton a
10 suspect when you showed the photo array to Edward Cooper
11 in 1995?

12 A. He was a possible suspect.

13 Q. Do you know where you conducted the photo
14 array with Edward Cooper in 1995?

15 A. I believe the -- I believe the report
16 indicated at his home.

17 Q. Do you have any independent recollection of
18 ever being at Edward Cooper's home?

19 A. No.

20 Q. Do you have -- do you have any independent
21 recollection of who Edward Cooper is?

22 A. No.

23 Q. And I'm not sure if I asked you this.
24 Did you -- the way you conducted photo arrays in 1995,
25 did you do anything different when you were conducting

1 photo arrays in 2002 that you can recall?

2 A. No.

3 Q. Okay. So your process was the same, correct?

4 A. Yes.

5 Q. Other than Chicago Police Department photos,
6 which we talked about the mugshots in general parlance,
7 were there any other sources that you routinely would
8 acquire photos to conduct photo arrays in 1995 or 2000?

9 A. Well obviously, as indicated on the report in
10 2002, we were able to obtain the -- the photograph of
11 James Fletcher, also known as Arnold Dixon (phonetic),
12 from the IDOC photographs.

13 Q. Right. So in this case, it appears that there
14 was photos that were acquired from IDOC, correct?

15 A. Yes.

16 Q. But my question was, other than Chicago Police
17 Department photos, was there any other sources that you
18 routinely acquired photos when conducting photo arrays
19 between the years 1995 and 2002?

20 A. No.

21 Q. Okay. Do you -- can you tell me any other
22 cases in which you acquired photos from Illinois
23 Department of Corrections to conduct a photo array?

24 A. I can't name specific cases. I -- I believe
25 there were others, but I -- I don't know any specific

1 cases.

2 Q. Can you tell me why you would acquire photos
3 from the IDOC -- actually, strike that. Were you
4 required to obtain photos from verifiable, authentic
5 sources?

6 MR. MICHALIK: Object to the form.

7 A. Well you -- you'd want to know that that photo
8 was the photo of the suspect.

9 BY MR. STARR:

10 Q. Right. And so in an effort to accomplish
11 that, would you necessarily only acquire photographs
12 from places where you could verify that the person was,
13 in fact, who they -- who they purported to be?

14 A. Well again, you -- you'd want to know that
15 that's the photo of your suspect, whether -- however
16 you can, you know, verify that, but that's -- you would
17 certainly want to know that.

18 Q. Okay. So other than the Chicago Police
19 Department photos, and at least the one time in this
20 case where you got the IDOC photos, can you tell me any
21 other sources in which you acquired photos to conduct a
22 photo array?

23 A. I don't recall any.

24 Q. When you conducted photo arrays, did you have
25 a practice whereby you showed witnesses color photos

1 versus black and white photos, or did it -- did it all
2 depend on the circumstance?

3 A. It could be either one.

4 Q. Okay. If you had access to color photos,
5 would you want to use the color photos?

6 A. I'd prefer color photos.

7 Q. How come?

8 A. They would generally show more details.

9 Q. Okay. So if you were conducting a photo array
10 and you had a choice between a black and white
11 photograph of a -- of an individual and a color photo,
12 you would opt for the color photo, correct?

13 A. If I had the choice between the two, yes.

14 Q. Okay. And that was a matter of practice,
15 right?

16 A. Matter of my practice, anyway.

17 Q. Okay. Do you know if there's any CPD policy
18 that dictated whether you should use color photos versus
19 black and white photos?

20 A. I don't believe there is.

21 Q. And then I think you testified that when you
22 did a photo array, you would -- you would generally want
23 to have -- I -- and correct me if I'm wrong, four or
24 five fillers; is that right?

25 A. Oh, yes. You -- at least three, but

1 preferably four or five.

2 Q. Would you ever do a photo array where you had
3 more than that number?

4 A. If you had more than one suspect in that photo
5 array, you'd have more fillers.

6 Q. All right. And in a circumstance where you
7 only had one suspect, would you ever use more than four
8 to five fillers?

9 A. I don't recall ever -- any more than that.

10 Q. Okay. And we talked a little bit about the
11 different types of characteristics, physical
12 characteristics, that you'd look for in terms of
13 fillers. Could you ever have a suspect who's one gender
14 and a -- fillers that are the other gender?

15 A. No.

16 Q. Okay. Could you ever have a suspect who
17 has -- who is one skin color, and then fillers that are
18 other skin colors?

19 A. Well, you -- you try to get them somewhat
20 similar. And there's different complexions, but you try
21 to get them somewhat similar.

22 Q. Okay. Would you ever have a situation where
23 you're doing a photo array, and you had a suspect who
24 was Black, and you would use a filler who was white?

25 A. No.

1 Q. Okay. Would you ever have a situation where
2 you were doing a photo array, and you had a suspect who
3 was Black, and use a filler who was Latino?

4 A. No.

5 Q. Okay. Would you have a situation where you
6 would have a photo array -- where you were conducting a
7 photo array, and you had a suspect who was Black,
8 and you'd use an Asian or Pacific Islander filler?

9 A. No.

10 Q. Okay.

11 A. No, there are -- there are Hispanics that have
12 a very dark complexion, that almost appear more Black
13 than Hispanic that you could possibly use, but that
14 would be the only case.

15 Q. Okay. And would you -- would you attempt
16 to -- or strike that. Would you make sure to have a
17 filler -- strike that. When you were conducting a photo
18 array, would you make sure that the fillers' skin
19 complexion was similar to the suspect's?

20 A. Somewhat similar.

21 Q. Okay. So if the suspect was a -- was a -- had
22 a -- was a Black person with dark black skin, would you
23 ever have fillers that were Black people who had light
24 skin?

25 A. It could be lighter shades, but not --

1 generally, not a very light-skinned Black, and -- and a
2 very dark-skinned Black.

3 Q. All right. Did you ever have a -- did you
4 ever conduct a photo array with a suspect who had any
5 tattoos on their face or neck with fillers who didn't
6 have tattoos on their faces and necks?

7 A. No.

8 Q. What about facial hair? If the suspect had
9 facial hair, would you make sure that all the fillers
10 had facial hair?

11 A. Yes, we'd like to do that.

12 Q. Would you do it on every occasion?

13 A. I don't know if I did it every occasion but
14 depending on the amount of facial hair.

15 Q. If the suspect was wearing glasses in the
16 photograph, would you make sure that all the fillers had
17 glasses on?

18 A. I'd -- I'd prefer that, but...

19 Q. Would you do that on every occasion?

20 A. If I could come up with fillers with -- with
21 glasses, I would.

22 Q. So it's possible that you would have a suspect
23 with glasses and fillers without glasses, if you had a
24 situation where you couldn't find fillers with glasses
25 that looked like the suspect, correct?

1 A. I don't know if I've ever done that,
2 but I think I would rather -- want to have glasses.

3 Q. Okay. Would you ever have an occasion where
4 you're conducting a photo array, and the suspect had a
5 full head of hair, and the fillers were bald?

6 A. I'd prefer them to be more similar than that.

7 Q. Okay. Did you ever have a situation where you
8 had a photo array that you conducted where the suspect
9 had hair and the fillers didn't have hair?

10 A. Well again, those -- the characteristics of
11 hair isn't the most important part of the photo array.
12 They're not identifying hair, but they're identifying
13 the face, so -- and hair can change -- change from day
14 to day, much -- much less year to year. So it's --
15 wouldn't be that crucial as the -- the amount of hair.

16 Q. What did you do to determine, in any given
17 photo array, that the witnesses were not looking at the
18 hair of the suspect and using that as a part of their
19 analysis in making an identification?

20 A. Well you'd ask them, you know, if they can
21 identify anybody. I mean, certainly if they said like,
22 oh, I can -- I'm identifying just by his hair, that
23 wouldn't be an identification.

24 Q. Right. So what if a -- what if a witness said
25 I saw the suspect, you know, he was a Black male and he

1 had long hair, would you ever show that witness a photo
2 array with Black males without long hair?

3 MR. STEFANICH: Objection to form.

4 You can answer.

5 A. It's possible.

6 BY MR. STARR:

7 Q. Would you do everything in your power to find
8 fillers and photographs of a suspect that had long hair,
9 if that's what the witness had told you?

10 MR. STEFANICH: Objection to form. You can
11 answer.

12 A. Again, the hair isn't a crucial factor in
13 identification. It's the face.

14 BY MR. STARR:

15 Q. Okay. And that -- what do you base that upon?

16 A. My knowledge as -- my many years as a
17 detective.

18 Q. All right. So if a witness told you that they
19 saw a Black male with long hair commit a crime, you
20 would not prioritize finding a photograph of a suspect
21 with long hair or fillers with long hair; is that
22 correct?

23 MR. STEFANICH: Objection. Form. You can
24 answer.

25 A. Well, not necessarily.

1 BY MR. STARR:

2 Q. What about hair color? If you were conducting
3 a photo array, would you make sure that the hair color
4 of the suspect was the same as what the witness said
5 they saw the suspect having?

6 A. Again, it's the same as the -- the hair.
7 It's -- the identification is the face, not the hair
8 color.

9 Q. So let me ask you this because I was going to
10 ask you about hairstyle as well, but I think you're
11 probably going to testify the same way. Did you -- did
12 you take any consideration, when you were -- when you
13 were putting together a photo array, of what a witness
14 said about the suspect's hair?

15 A. Not necessarily.

16 Q. And I think you testified that you want to
17 make sure that the fillers and the witness -- or sorry,
18 strike that. I think you testified earlier that you
19 want to make sure that the fillers and the suspect were
20 in the same age range; is that correct?

21 A. Yes.

22 Q. What does that -- what does that term age
23 range mean to you? What was your practice?

24 A. Well, you wouldn't want somebody very young in
25 with somebody very old. In between them, you know,

1 it's -- that would be impossible to use them in -- in
2 the fillers.

3 Q. So if you had a suspect that was 30 years old,
4 would you have -- ever have fillers that were 50 years
5 old?

6 A. If the 30-year-olds looked a little older than
7 30, it's possible.

8 Q. Okay.

9 A. Or if the 50-year-old looked younger.

10 Q. Okay. Would you ever conduct a photo array
11 where the fillers were more than 15 years age difference
12 than the suspect?

13 A. It's possible.

14 Q. Okay. What circumstance can you think of
15 where that would be the case?

16 A. Again, how -- how the photos look.

17 Q. Okay. So your primary determination when
18 you're putting together a photo array is if you
19 subjectively think that the suspect looks like the
20 fillers; is that correct?

21 A. Yes.

22 Q. Okay. Any other criteria that you apply?
23 Would you ask any other detectives whether or not they
24 agreed that the fillers looked like the suspect?
25 Would you ask the supervisor? Would you do anything

1 else to make sure that the suspect and the fillers
2 looked enough alike?

3 A. No. I would just put them together,
4 what I felt was right.

5 Q. Okay. So just like an eye test kind of thing,
6 correct?

7 A. Well, what I -- what I thought was the -- a
8 proper photo array.

9 Q. All right. And that was your practice both in
10 1995 and 2002, right?

11 A. Yes.

12 Q. And you understood your practice to conform
13 with what the Chicago Police Department policy was in
14 '95 and 2002, correct?

15 A. Yes.

16 Q. When you were testifying earlier about your
17 own personal supply of photographs, were those
18 photographs all Chicago Police Department mugshots?

19 A. Yes.

20 Q. Okay. And where did you keep those photos
21 when you were working back in '95 through 2002?

22 A. Oh, I might have them in my locker. There
23 might be a desk that have the -- a group -- a pile of
24 photos in.

25 Q. And where did you acquire those photos from?

1 A. From other investigations.

2 Q. All right. And you also -- and what did you
3 do with those photos when you were done with your
4 career?

5 A. Whatever I had personally, I threw away.
6 I didn't keep them, or -- didn't keep any files.

7 Q. Okay. And then you also testified -- strike
8 that. So when you retired, you disposed of all the
9 photographs that you had that were part of your personal
10 collection?

11 A. Yes.

12 Q. Did you just throw them in the trash, or what
13 do you remember -- what do you remember about how you
14 disposed of them?

15 A. I don't remember. I would say probably, yes.

16 Q. And then you also testified that there was a
17 Area 5 collection of photographs that was separate from
18 the ones that you personally maintained, correct?

19 A. I kind of recall there might have been a -- a
20 drawer that had extra photos in it. I don't, you know,
21 recall why they were there, but I believe there were
22 some available.

23 Q. And were those photos -- as far as you're able
24 to recall, were those photos all Chicago Police
25 Department mugshots?

1 A. Yes.

2 Q. Were your -- was your personal collection of
3 photos, were they all color photos?

4 A. A combination, black and white and color.

5 Q. Okay. Was the separate group collection of
6 photos at Area 5, were they color or black and white?

7 A. I think it was all grouped together, both
8 color and black and white.

9 Q. Regarding photo arrays still -- I'm still on
10 that subject. If you had a witness who told you that
11 they didn't see the suspect, but they were there when
12 the crime occurred, or something to that effect, would
13 you still -- as a matter of practice, if you had a
14 suspect, would you still show that witness a photo array
15 to see if they could identify the suspect?

16 A. No. If they said they didn't see the suspect,
17 there'd be no reason to show them a photo array.

18 Q. Okay. So if they said that their view of the
19 suspect was obstructed and they weren't able to see the
20 person's face, you would never show them a photo array?

21 A. No. There would be no need to show them a
22 photo array if they didn't see the face.

23 Q. Okay. If a witness said that they saw the
24 suspect, and you were -- let's strike that. If you were
25 working a cold case and on the initial investigation,

1 the witness said they had seen the suspect, and you were
2 re-interviewing that suspect, like you testified you did
3 as a matter of practice, and that witness said, I don't
4 think I can -- I no longer can identify the suspect,
5 would you show that suspect a photo array if you had a
6 suspect in mind?

7 MR. STEFANICH: Objection. Form. You can
8 answer.

9 A. If they say no, they don't believe they can
10 identify him, if -- if there was any doubt whether
11 they -- they can, I would show the photo array to them.

12 BY MR. STARR:

13 Q. Okay. Would you show the photo array just to
14 see whether or not they, in fact -- it would refresh
15 their recollection?

16 MR. STEFANICH: Objection. Form. You can
17 answer.

18 A. I think it would be worth showing the photo
19 array in all circumstances.

20 BY MR. STARR:

21 Q. Why would it be worth showing the photograph
22 in all circumstances?

23 A. Well, in the circumstances you said, that they
24 did say they could identify originally, and now they're
25 saying that they don't, I think it would be worth

1 showing a photo array.

2 Q. And -- but what would be the point of that?
3 Why would you -- why would you want to do that, as a
4 general matter of practice?

5 A. Just -- just to see whether they could
6 identify them or not.

7 Q. Would it be a good -- a good practice thing to
8 do to, you know, exhaust all of your investigative
9 leads?

10 MR. MICHALIK: Object to the form.

11 A. I think it's the proper thing to do.
12 BY MR. STARR:

13 Q. Okay. And just -- I'm just trying to get at
14 why you think that's the proper thing to do. Why do you
15 think that's the thing you should have done as a
16 detective?

17 A. Well, to see if this witness could make an
18 identification.

19 Q. Okay. So if a witness initially says they
20 can -- they can ID a suspect -- strike that. If a
21 witness initially said, at some point in time, that they
22 saw the suspect, and then at some point in the future,
23 they said, I don't think I can -- I no longer can
24 identify the suspect, if you were investigating the
25 case, you would still show them a photo array to see

1 whether or not they could identify the suspect, correct?

2 MR. STEFANICH: Objection to --

3 A. If --

4 MR. STEFANICH: Objection to form. You can
5 answer.

6 A. If they agreed to look at photo array.
7 I mean, obviously if they said, I'm not -- I don't -- I
8 don't want to look at any photos, then you don't show
9 them. But if -- if they were agreeable to look at
10 photos, I would show them photos.

11 BY MR. STARR:

12 Q. Okay. And just to exhaust this completely, in
13 a situation where -- like that, where you had a witness
14 who initially says they can -- they saw the suspect,
15 and then at some point later, they say they can no
16 longer recall what the suspect looked like, or they
17 can't identify the suspect, you would ask them, hey,
18 can I show you a photo array, correct?

19 MR. STEFANICH: Objection. Form. You can
20 answer.

21 A. I probably would, yes.

22 BY MR. STARR:

23 Q. Okay. And you would do that because you would
24 want to see whether or not they, in fact, can identify
25 the suspect, right?

1 A. Yes.

2 Q. Because if they can identify the suspect,
3 that would certainly help your investigation, correct?

4 A. Well, it would help to show whether this
5 suspect is the offender.

6 Q. Okay. So it would -- it would either rule
7 them in or rule them out, correct?

8 A. Well, maybe not totally either way, depending
9 on other witnesses in the -- in the investigation.

10 Q. But they would provide you with additional
11 information to make an educated evaluation of the case,
12 correct?

13 A. It -- it would probably get us to continue
14 looking at that person as a suspect.

15 Q. Okay. So -- strike that. If a witness told
16 you that they saw the suspect, but it was only for a
17 very short duration, would you attempt to show them a
18 photo array?

19 MR. STEFANICH: Objection. Form. You can
20 answer.

21 A. I probably would, yes.

22 BY MR. STARR:

23 Q. And would you do it for the same reason you
24 just testified to, because you wanted to see whether or
25 not they could identify the person?

1 A. Yes.

2 Q. Because that would be a good matter of
3 practice, right?

4 MR. MICHALIK: Object to the form.

5 A. Well, it's -- it's part of the investigation
6 to see if witnesses can identify anybody.

7 BY MR. STARR:

8 Q. But that would be a proper practice to do as a
9 Chicago Police detective. If you had a suspect -- or
10 strike that. If you had a witness who said, yeah, I saw
11 the suspect for a fleeting instant, you would say, well,
12 I want you to take a look at the photo array, tell me
13 whether or not you can make an identification, correct?

14 A. Well, again, they have to be --

15 MR. STEFANICH: Objection to form.

16 THE WITNESS: I'm sorry.

17 MR. STEFANICH: Go ahead. You can answer.

18 A. They'd have to be able to say they -- they saw
19 the face. They can't say, I saw them, you know, from
20 the back or, you know, I just -- I saw his hairstyle.
21 They have to be able to say they saw the face.

22 BY MR. STARR:

23 Q. But in a circumstance where a witness tells
24 you, I did in fact see the suspect's face for a very
25 short duration of time, you, as a matter of good

1 practice, would ask them to look at a photo array if you
2 had a suspect, correct?

3 MR. STEFANICH: Objection. Form. You can
4 answer.

5 A. I believe I would ask them to -- if they would
6 be willing to look at some photos.

7 BY MR. STARR:

8 Q. If you were working on a cold case where a
9 witness had previously indicated that they saw the
10 suspect, but during your re-interview of them, they
11 indicated to you that they had some sort of poor memory,
12 would you ask that witness to see a photo array if you
13 had a suspect in mind?

14 MR. STEFANICH: Objection. Form.

15 A. I don't know what -- what you mean by them
16 saying they -- they would just say the words, I have a
17 poor memory? I'd -- I'd ask them further, or whether
18 they -- if they think they could possibly identify
19 anybody, and if -- if they'd be willing to look at
20 photos.

21 BY MR. STARR:

22 Q. Okay. So in a circumstance where a witness
23 told you that they had poor -- a poor memory while you
24 were investigating a cold case, you would still want to
25 show them a photo array to see whether or not they could

1 identify the suspect, correct?

2 MR. STEFANICH: Objection. Form.

3 A. Well, I -- I'd ask them if they'd be willing
4 to look at some photos.

5 BY MR. STARR:

6 Q. Right. So just so the record's clear, so in a
7 circumstance where you were interviewing a witness who
8 had previously indicated they could -- they saw the
9 suspect, but were now indicating that their memory was
10 poor, you would still ask them to review a photo array
11 to see whether or not they could identify the suspect,
12 correct?

13 MR. STEFANICH: Objection. Form.

14 A. I probably would.

15 BY MR. STARR:

16 Q. In a circumstance where you're investigating a
17 cold case and a witness tells you -- strike that. In a
18 circumstance where you're investigating a cold case that
19 involved a witness who had previously indicated they
20 could see the suspect, they saw the suspect during the
21 crime, and you're interviewing them, you're re-
22 interviewing them, they tell you that they're -- that
23 they couldn't remember what the suspect looked like, in
24 those circumstances, would you ask that suspect -- that
25 witness see -- to review a photo array?

MR. STEFANICH: Objection. Form.

BY MR. STARR:

Q. Yeah, let me just rephrase that. I butchered it. Give me one second. In a circumstance where you're investigating a cold case that involved a witness who had previously indicated they saw the suspect, and during your re-interview of that witness, they told you they could no longer remember what the suspect looked like, would you still show them, or attempt to show them, a photo array to see whether or not they can identify the suspect?

MR. STEFANICH: Objection. Form.

A. If they say -- they were saying they no longer can remember what the suspect looked like, I probably wouldn't show photos, no.

BY MR. STARR:

Q. Okay. So you wouldn't show them a photo array to see if that refreshes their recollection?

A. Well if -- if they're insisting that they can't remember it -- remember the suspect, I don't think there'd be any need to show a photo array.

Q. Would there be any reason not to show them a photo array?

A. It just doesn't seem like it would be necessary.

1 Q. Why not?

2 A. Because they're -- they're telling me that
3 they can't possibly identify anyone.

4 Q. Well, they're not -- and that wasn't the
5 scenario I laid out. I'm asking you about a witness who
6 you are interviewing, you're re-interviewing, and
7 they're saying to you, I saw the suspect back in 1990,
8 but it's 2002 and I don't remember what they looked
9 like. Would you say, okay, well, look at this photo
10 array and tell me if you remember any of these people as
11 a suspect?

12 MR. STEFANICH: Objection. Form.

13 A. I -- I'd certainly go into the -- what they
14 remember that they saw, you know, did they see a face?
15 Did -- do they remember anything about what the suspect
16 looked like? And if they don't, well there's no reason
17 to show photos.

18 BY MR. STARR:

19 Q. Well, so in a case like this, like if you were
20 re-interviewing a witness from a 1990 shooting, who in
21 1990, indicated they saw the suspect, and in 2002, they
22 tell you, I don't remember what the person looked like,
23 but I remember I saw the face, it was a Black male. In
24 that circumstance, would you ask that witness to look at
25 a photo array to see whether or not they could identify

1 a suspect?

2 MR. STEFANICH: Objection. Form.

3 A. If they say they saw a face, I would show
4 them -- ask them to look at a photo array.

5 BY MR. STARR:

6 Q. Okay. If you were interviewing a witness on a
7 cold case, who had previously indicated that they had
8 seen the suspect's face, and during your re-interview,
9 they said to you that they were concerned that too much
10 time had elapsed since the crime, would you ask that
11 witness to view a photo array to see whether or not they
12 could identify the suspect?

13 MR. STEFANICH: Objection. Form.

14 A. Well, it depends what they said besides
15 there's too much time passed, and whether they still
16 believe they could recall what the -- the offender
17 looked like.

18 BY MR. STARR:

19 Q. So tell me everything that a witness could say
20 to you, in a situation like that, where they had
21 expressed they were concerned about how much time had
22 elapsed, that would allow for you to want to show them a
23 photo array?

24 MR. STEFANICH: Objection. Form.

25 A. Again, it all depends on what the witness is

1 saying. They're not going to just say, I'm concerned
2 that there's a -- a time-lapse here, you know.

3 BY MR. STARR:

4 Q. Well, in my situation, or the -- my question
5 was that, so let me just ask it again. So in a
6 situation where you're interviewing -- re-interviewing
7 the witness who had previously indicated they saw the
8 suspect, and they told you during the re-interview, you
9 know, a lot of time has passed, I'm concerned that a lot
10 of time has passed since I saw that suspect.

11 My question is, would you still ask that witness to
12 review a photo array to see whether or not they could
13 make an identification?

14 MR. STEFANICH: Objection. Form.

15 A. Well, I'd ask them, do you think it's possible
16 that you could -- you could still identify the suspect.

17 BY MR. STARR:

18 Q. And what if they told you they didn't know?

19 A. If they said they're not sure, I'd probably
20 show a photo array.

21 Q. Okay. I asked you early on in the dep about
22 whether or not you ever witnessed, or became aware, of
23 another detective unduly influencing identification
24 procedures. Do you remember that question?

25 A. Yes.

1 Q. You said you had -- you'd never witnessed that
2 or became aware of that, correct?

3 A. Correct.

4 Q. If you had, during your time at Area 5, either
5 witnessed that or became aware of it, what would you
6 have done?

7 A. I would have reported that to a supervisor.

8 Q. Okay. Why would you have reported that to
9 your supervisor?

10 A. Because that's improper, illegal.
11 They -- they may have just committed a crime.

12 Q. If a Chicago Police detective had unduly
13 influenced an identification procedure, could it also
14 compromise the integrity of the investigation?

15 A. It's possible.

16 Q. Okay. Could it also undermine the ability to
17 prosecute the suspect?

18 A. It's possible.

19 Q. Could it also possibly lead to the prosecution
20 of someone who is innocent?

21 A. I guess that's possible.

22 Q. Was that a concern that you had at all?

23 A. Well, I don't want any innocent person charged
24 with any crime.

25 Q. So is that a concern that you had when you

1 were a Chicago Police detective?

2 A. A concern that someone innocent is charged?

3 Q. Yeah. Were you -- as a Chicago Police
4 detective, were you concerned that your work could lead
5 to the prosecution and conviction of an innocent person?

6 A. I don't know that I -- I thought of that.
7 I -- I followed the investigation, and the investigation
8 made me believed that someone was the offender, and I'd
9 present that case to the State's Attorney's Office for
10 charging.

11 Q. And in a circumstance where you did an
12 investigation and had a suspect, but you had doubts
13 about whether or not they were -- they were, in fact,
14 guilty of a crime, what would you do?

15 MR. STEFANICH: Objection. Form, sorry.

16 A. I would continue the investigation.

17 BY MR. STARR:

18 Q. Would you express those concerns with -- to
19 your -- to your partner?

20 A. Well, certainly, we'd talk about the case.

21 Q. Would you express those concerns to a
22 supervisor?

23 A. I might.

24 Q. Did you ever work on any cases, as a Chicago
25 Police Department detective, where someone was arrested

1 and then prosecuted, and you had doubts about their
2 innocence or guilt?

3 A. No.

4 Q. All right. So I asked you about photo arrays,
5 I'm going to ask you about lineups now. Did you conduct
6 any lineups in the Willie Sorrell criminal
7 investigation?

8 A. Yes.

9 Q. How many lineups did you either conduct or
10 participate in the Willie Sorrell investigation?

11 A. Well, it was one lineup, but there were two
12 witnesses that viewed the lineup.

13 Q. Okay. And do you have independent
14 recollection of your participation in those lineups or
15 do you only know that because you read it in a report?

16 A. Just from reading reports.

17 Q. Okay. Who -- what witness -- strike that.
18 Do you know what witnesses viewed lineups that you
19 participated in?

20 A. Edward Cooper and Sheenee Friend.

21 Q. And your testimony is that they did not view
22 the lineup at the same time; is that correct?

23 A. No, they didn't.

24 Q. Okay. Which one viewed the lineup first?

25 A. I don't recall which one went first.

1 Q. Okay. Do you know if Edward Cooper identified
2 anyone in a lineup?

3 A. Yes, he did.

4 Q. Who did he identify?

5 A. James Fletcher.

6 Q. Did you speak to Mr. Cooper prior to his
7 viewing the lineup?

8 A. Well, certainly, we would've contacted him
9 and -- and told him we -- we wanted -- we'd like to have
10 him come and look at the lineup.

11 Q. Did you speak to him when he arrived at the
12 area?

13 A. I'm sure we directed him where to sit while
14 the -- the lineup -- until we got the lineup going for
15 him to -- to view.

16 Q. But you don't have any independent
17 recollection of anything you said to him or he said to
18 you, correct?

19 A. Correct.

20 Q. Do you know whether or not you showed Edward
21 Cooper any photos when he came to the area to view the
22 lineup?

23 A. No, I don't -- I don't believe we did. It's
24 not -- the report doesn't indicate that any photos were
25 shown.

1 Q. But you don't have any independent
2 recollection of whether or not you showed Edward Cooper
3 photos when came --

4 A. There -- there would be no reason to show him
5 photos at that time.

6 Q. Just let me get the question fully out so
7 it's a clean record. You don't have any independent
8 recollection of whether or not you showed Edward Cooper
9 photos when he came to the Area 5 prior to viewing the
10 lineup, correct?

11 A. I don't have any -- any recollection of that
12 occurring. The whole thing occurring, so no, I -- I
13 don't, but it -- there would be no reason to show
14 photos.

15 Q. Okay. Do you recall selecting the fillers for
16 the lineup that Mr. Cooper viewed?

17 A. I don't recall that.

18 Q. Do you know if you selected the fillers or
19 not?

20 A. I don't know who did.

21 Q. And then you also had mentioned that Sheenee
22 Friend viewed a lineup at Area 5, correct?

23 A. Yes.

24 Q. And did she -- is it your -- do you
25 know -- strike that. Do you know whether or not

1 Ms. Friend identified anyone in the lineup during the
2 Willie Sorrell investigation?

3 A. She also identified James Fletcher.

4 Q. And did you speak to Ms. Friend when she
5 arrived at the area prior to her viewing the lineup?

6 A. I'm sure we had some conversation with her.

7 Q. Do you have any independent recollection of
8 anything you said to her, or she said to you?

9 A. No.

10 Q. And just -- I didn't ask you this.
11 Did you have -- do you have any independent recollection
12 of anything that any detective said to Edward Cooper,
13 or Edward Cooper said to any detective, when he came to
14 view a lineup?

15 A. No.

16 Q. Do you have any independent recollection of
17 anything that any police personnel said to Ms. Friend,
18 or what Ms. Friend said to any police personnel, when
19 she came to view a lineup?

20 A. No.

21 Q. Do you know whether or not you showed
22 Ms. Friend any photos prior to her viewing the lineup
23 when she came to the area to view the lineup?

24 A. I don't -- I don't recall the lineups, but
25 again, there would be no reason to show her photos.

1 Q. But you can't say one way or the other,
2 because you don't have independent recollection,
3 correct?

4 A. But I -- I've never shown photos to anyone
5 before they're viewing a lineup.

6 Q. Okay. Your testimony is you've never shown
7 photos to anyone viewing a lineup at the same --

8 A. Same --

9 Q. -- occasion of them --

10 A. At the same --

11 Q. -- viewing a lineup?

12 A. -- at the time of the lineup. Uh-huh.

13 Q. Okay. Were the same fillers that were in the
14 lineup that Mr. Cooper viewed the fillers that were in
15 the lineup that Ms. Friend viewed?

16 A. Yes.

17 Q. And do you know that from looking at the
18 report?

19 A. Yes.

20 Q. But you don't have any independent
21 recollection of any of the fillers, correct?

22 A. Correct.

23 Q. What was your general practice when conducting
24 a lineup?

25 A. Well, each witness would come in one at a

1 time, you know, separately. Generally, they'd be behind
2 the one-way mirror, looking at the -- the participants
3 in the lineup. We'd direct the participants would line
4 up to step forward one at a time, generally make a turn
5 left and right, and go back in line. This could be done
6 through an intercom or -- or by another detective in the
7 room with the fillers. And then after each one did
8 this -- these motions, stepping forward and turning,
9 we'd ask the witness if she recognized anyone,
10 or he -- he recognized anyone.

11 **Q. And as a general practice, did you have a**
12 **number of people that would be in a lineup at any given**
13 **time?**

14 A. Well, again, you'd -- you'd want at least
15 three, but preferably four or five.

16 **Q. Three to five plus the suspect?**

17 A. Yes.

18 **Q. And would the same criteria that you applied**
19 **to fillers for a photo array, apply to fillers that you**
20 **chose to sit in a lineup with the suspect?**

21 A. Basically.

22 **Q. Was there any differences in the criteria that**
23 **you applied to lineups that you -- that you applied to**
24 **photo arrays?**

25 A. I mean, you might be looking closer at height

1 in a lineup, because they can -- they can easily tell a
2 height difference in a lineup as opposed to a photo,
3 but -- and weight, probably, also because -- because
4 you're seeing each participant in the lineup, but other
5 than that, it's basically the same.

6 Q. So you would -- you would want to make sure
7 that the height and the weight of the fillers was
8 similar to the suspects, correct?

9 A. Somewhat similar.

10 Q. Like, what degree of difference in inches
11 would you think is acceptable to have a filler and a
12 suspect be different?

13 A. Well, I -- I -- I don't know as far as inches.
14 You -- you just look at them, and if someone's very
15 short, you don't want to put someone very tall in it,
16 or vice versa.

17 Q. So there's not a set number of inches that you
18 can tell me that you would --

19 A. No.

20 Q. -- you know, that would be too much --

21 A. No.

22 Q. -- to have a filler be shorter or taller than
23 a suspect, correct?

24 A. Correct.

25 Q. What about weight? How much weight variance

1 is acceptable, in terms of --

2 A. I'd have to say --

3 Q. -- the fillers and the suspects?

4 A. Sorry. I'd have to say the same thing.
5 You'd -- you'd -- you'd look at them and -- and you
6 wouldn't want someone very thin with someone obese, but
7 the weight can vary a little bit.

8 Q. So you can't tell me a set number of pounds
9 that would be an acceptable or unacceptable difference
10 between a filler and a suspect, correct?

11 A. No, I can't.

12 Q. If you were working a cold case that,
13 you know, 12 years had elapsed -- 11 to 12 years had
14 elapsed, would you do anything to make sure that the
15 suspect or the filler's weight was similar to what it
16 was when the crime occurred?

17 A. No.

18 Q. Okay. Would you do anything in a situation
19 like that, where 12 years had -- 11 or 12 years had
20 elapsed, to make sure that the witnesses were viewing a
21 lineup, or a photo array, for that matter, where the
22 people in the lineup or the photo array had a similar
23 hairstyle that they had when the crime occurred?

24 MR. STEFANICH: Objection. Form.

25 A. No.

1 BY MR. STARR:

2 Q. Would you do anything in a situation like that
3 to make sure that the witnesses were viewing a photo
4 array, or a lineup, that had people in it who had
5 similar facial hair that the suspect had in the
6 beginning?

7 MR. STEFANICH: Objection. Form.

8 A. No.

9 BY MR. STARR:

10 Q. Did you understand that last question?

11 A. I believe so.

12 Q. Okay. It was kind of poorly phrased.
13 Were there any policies or regulations that you were
14 aware of in 2002 regarding how to conduct a lineup?

15 A. I'm sure there were. I don't recall them
16 specifically. It must -- I'm sure we were trained at
17 the academy somewhat and, of course, you'd learn from
18 other detectives.

19 Q. And then the -- if there were any policies
20 that governed how you could or could not conduct a
21 lineup in 2002 -- in 2002, would you have been aware of
22 them?

23 A. Yes.

24 Q. And would you have adhered to them?

25 A. Yes.

1 Q. Do you have any recollection, during your time
2 as a Chicago Police detective, ever inquiring about what
3 the policies were regarding any kind of investigation or
4 investigative tax -- tasks?

5 A. Inquiring, yes.

6 Q. So I just -- let me rephrase the question.
7 As a detective, did you ever ask any supervisor or seek
8 out any source to find out what the policies were
9 regarding the work that you were doing?

10 A. I mean, we'd -- we'd confer with supervisors
11 regarding the cases we did, but I'm not sure what you're
12 asking me.

13 Q. So there were policies in place during your
14 tenure as a Chicago Police detective, correct?

15 A. Yes.

16 Q. And those policies dictated the things that
17 you were expected to do, correct?

18 A. Some of them were, yes.

19 Q. And those policies -- some of those policies
20 dictated the things you were not allowed to do, correct?

21 A. Probably.

22 Q. And some of those policies dictated how you
23 were supposed to do your job, correct?

24 A. Well, that's -- that's what training is,
25 how to do your job.

1 Q. Training is a separate, I think,
2 consideration. I'm asking specifically about policies
3 governing the work you did as a detective. You are
4 generally aware that there were policies in place that
5 governed how -- the work you did as a detective,
6 correct?

7 A. I assume there were. I don't know the --
8 the -- the specific directives or general orders
9 or -- that -- that would've applied to that.

10 Q. Okay. But you were aware that there were
11 general orders and there were directives during your
12 time as a detective that applied to you, right?

13 A. It applied to the detective division, yes.

14 Q. Okay. Did you ever have an occasion where you
15 sought out, either through a supervisor or other means,
16 to find out what those specific policies were?

17 A. Well, I -- I -- I can only think of one
18 that -- which applies to this case, as far as when
19 there's an attorney present for a lineup, what should be
20 done. And I know at some point, we were -- we were told
21 that the attorney should stand on the side with the
22 participants in the lineup and not in the room with
23 witnesses.

24 Q. Do you have an independent recollection of
25 that?

1 A. Yes.

2 Q. Okay. So you have an independent recollection
3 of being told that an attorney should stand with the
4 witnesses in this particular case?

5 A. Not in --

6 MR. STEFANICH: Objection.

7 A. Not in this particular -- sorry.

8 MR. STEFANICH: Yeah. I think it misstates his
9 prior testimony. Okay. You can answer.

10 A. Not in this particular case, but in another
11 case.

12 BY MR. STARR:

13 Q. Okay. Because I thought -- I mean, I can have
14 him read it back, but I thought you said it was in this
15 case. It wasn't in this case that you recall that?

16 A. Well, I'm just saying it applies to this case
17 because there was an attorney present.

18 Q. Okay. So just -- I want it to just be clear.
19 So what is your independent recollection of what you're
20 testifying to regarding seeking out policies regarding
21 attorneys being present during lineups?

22 A. That the attorney should stand with their
23 client and the participants in the lineup in that room
24 and not in the room where witnesses are viewing.

25 Q. Okay. And what is your independent

1 recollection of who you asked about that issue?

2 A. We were told that by a sergeant, Sergeant
3 Keough.

4 Q. How do you spell that name?

5 A. K-E-O-U-G-H, I believe. Thomas Keough.

6 Q. And that was not in the Willie Sorrell
7 investigation?

8 A. No, it was a different case.

9 Q. What case was that in?

10 A. I don't remember, but I remember being told
11 that.

12 Q. And are you -- you're -- you have an
13 independent recollection that it was specifically a
14 different case and not this case, correct?

15 A. Yes.

16 Q. Was it before the Willie Sorrell case,
17 or after the Willie Sorrell case?

18 A. Before.

19 Q. And you have a specific independent
20 recollection of this case being before the Willie
21 Sorrell case?

22 A. Yes, because I knew that when this
23 circumstances came up, that's what we were supposed to
24 do. We were supposed to put this attorney in the lineup
25 with their client.

1 Q. Okay. And you asked the Sergeant Keough and
2 they just -- he just orally gave you the policy, or how
3 did the -- you -- how did it go about that you
4 understood what the policy was?

5 A. Orally from him.

6 Q. Okay. Any other circumstances that you can
7 recall seeking out clarification on what the policy was
8 as it applied to the detectives, during your tenure as a
9 Chicago Police detective?

10 A. You know, I don't -- that's a very general
11 question. I don't -- I don't understand -- I don't
12 remember anything in particular.

13 Q. Do you recall ever reading a policy, during
14 your time as a Chicago Police detective, that applied to
15 your work as a Chicago Police detective?

16 A. Well, I mean, over many years, I've read
17 department -- department directives that come out. What
18 specifically is said, though, I don't remember.

19 Q. Okay. When you read department
20 detective -- directives that come out, what is
21 this -- what kind of context would you read those in?

22 A. What kind of context would I read in? I don't
23 understand that question.

24 Q. Yeah. So I think my understanding is that, if
25 a policy gets updated, they -- in the past, would give

1 you a hard copy of that update; is that correct?

2 A. Hard copies were available. We might -- we
3 might also be instructed at roll calls by supervisors.

4 Q. Okay. So you might -- be orally instructed by
5 supervisors, or you may receive an actual physical copy
6 of the policy updates?

7 A. Or both.

8 Q. Okay. Any other circumstances that you can
9 recall reading a policy as it applied to your work as a
10 Chicago Police detective, during your tenure as a
11 detective?

12 A. I'm sure there are. I -- I've read department
13 general orders and special orders and detective
14 directives and everything else they put out, but I don't
15 remember any -- what specifically I read.

16 Q. Okay. And the policy that governed lineups in
17 1995, do you have any recollection of it being different
18 in 2002?

19 A. No.

20 Q. And if there was a policy in place, you
21 would've conformed to that policy in '95 and 2002,
22 correct?

23 A. Yes.

24 Q. Regarding a lineup, specifically, if you
25 brought someone down to view a lineup, a witness to view

1 a lineup, and they told you at the station that they
2 didn't think they could identify anyone, would you still
3 show them the lineup?

4 MR. STEFANICH: Objection. Form.

5 A. Well, it depends what they had said previously
6 and -- and whether they were willing to look at a
7 lineup.

8 BY MR. STARR:

9 Q. If they were willing to look at a lineup but
10 they told you they couldn't identify anyone, would you
11 ask them to sit and view a lineup?

12 MR. STEFANICH: Objection. Form.

13 A. If they said they previously could identify
14 someone and -- and now they don't think they can,
15 I'd probably ask them to look at the lineup.

16 BY MR. STARR:

17 Q. Okay. So in a circumstance where a witness
18 had previously indicated that they saw the suspect, and
19 they could potentially identify the suspect, but then in
20 the future, was indicating that they could no longer
21 identify the suspect, you'd still want them to look at
22 the lineup to see whether or not they could identify
23 them, correct?

24 MR. STEFANICH: Objection. Form.

25 A. Again, it depends what they say, what the

1 reason is now they felt that they can't identify.

2 BY MR. STARR:

3 Q. Well, what if -- what if a witness had
4 previously indicated that they saw the suspect and
5 thought they could identify the witness, but then in the
6 future, were just indicating they didn't think they
7 could identify the suspect? Would you still show them a
8 lineup?

9 MR. STEFANICH: Objection. Form.

10 A. Again, it's -- it's an individual person,
11 individual case. You'd have to make a -- a judgment
12 call at the time. It's possible you would, if they're
13 willing to do it.

14 MR. STARR: Anyone need a break? Let's go off
15 the record. What do you want to do for lunch?
16 I'll wait for the record to go off.

17 THE VIDEOGRAPHER: We are going off the record.
18 The time is 1:23 p.m.

19 (OFF THE RECORD)

20 THE VIDEOGRAPHER: We are going on the record.
21 The time is 2:17 p.m.

22 BY MR. STARR:

23 Q. All right, Mr. Schalk. I believe I
24 asked -- you had began your participation in the Sorrell
25 investigation in 1995. Do you know what month it was?

1 A. I believe the report says March.

2 Q. Okay. But you don't have any independent
3 recollection of the beginning of that, correct?

4 A. No.

5 Q. All right. Do you know how many witnesses
6 there were to the Willie Sorrell shooting?

7 A. There were four.

8 Q. Do you know what witnesses police interviewed
9 in 1990, in the Willie Sorrell shooting?

10 A. I -- I believe they interviewed all four
11 witnesses.

12 Q. Okay. And did you and Detective Bogucki
13 interview those four witnesses as well?

14 A. At different times, yes.

15 Q. Okay. When you say different times, do you
16 mean you and Detective Bogucki both interviewed them
17 separately, or do you mean you interviewed them not
18 altogether? What do you mean by that exactly?

19 A. Well, we -- we interviewed them on different
20 dates.

21 Q. And those witnesses would be Edward Cooper,
22 Sheenee Friend, Emmitt Wade, and Terry Rogers, correct?

23 A. Yes.

24 Q. All right. Did you and Detective Bogucki
25 interview all four of those people together?

1 A. No.

2 Q. Did you ever interview any of those four
3 witnesses outside of Detective Bogucki's presence?

4 A. I don't believe so.

5 Q. Okay. Did Detective Bogucki interview any of
6 those four witnesses outside of your presence?

7 A. No.

8 Q. So when I asked you if you and Detective
9 Bogucki interviewed all four witnesses together and you
10 said no, what did you mean?

11 A. Did -- we didn't -- didn't interview the four
12 witnesses at the same time. Myself and Detective
13 Bogucki interviewed each witness, but each witness
14 separately.

15 Q. Okay. Separate from one another --

16 A. One another, right.

17 Q. -- the two -- four witnesses, right?

18 A. Yes.

19 Q. But each of the interviews with the four
20 witnesses were conducted by both you and Detective
21 Bogucki --

22 A. Yes.

23 Q. -- together with the witness, correct?

24 A. Yes.

25 Q. All right. And you said you don't -- you

1 don't know whether Detective Bogucki interviewed anyone
2 outside of your presence?

3 A. I don't believe he did.

4 Q. Okay. Do you know what witnesses Detective
5 Noradin interviewed during the Sorrell investigation?

6 A. You know, I don't. He would've been working
7 with us, but he was in a different day off group, so
8 some days he'd be -- whenever he was working, he was
9 with -- when we were working, we were together, but
10 there's the days off, we'd be off, and days when he'd be
11 off, so I'm not sure when he was present for any of the
12 -- the interviews.

13 Q. How do you know that he was in a different day
14 off group than you?

15 A. I remember that.

16 Q. You have an independent recollection of the
17 fact that Detective Noradin had a different day off
18 group than you and Detective Bogucki?

19 A. Yes.

20 Q. Okay. Do you know if Sergeant Wojcik
21 interviewed any of the witnesses to the Willie Sorrell
22 shooting?

23 A. No, he didn't.

24 Q. How do you know that?

25 A. Because if he did, there'd be a -- a report on

1 it.

2 Q. So since there's no report indicating that
3 Detective -- Sergeant Wojcik interviewed any of the
4 witnesses, there's no reason for you to believe that he
5 did?

6 A. Correct.

7 Q. You don't know one way or another though, if
8 he did?

9 A. Well, as I said, a report would indicate if he
10 had anything to do with the case, other than approving
11 the -- the report once it's submitted.

12 Q. Okay. But other than -- other than your
13 review of the report, you have no other basis to say
14 that he, in fact, did not participate in any interviews,
15 correct?

16 A. I don't recall the interviews themselves, so
17 no, but as I said, there would've -- if he was involved
18 at all, his involvement would've been documented.

19 Q. Did any Black detectives work in Area 5 in
20 2002?

21 A. I'm sure there were. I don't recall exactly
22 who, though.

23 Q. Can you recall any specific Black detective
24 working in Area 5 in 2002?

25 A. Again, I don't know. In 2002, I can't say

specifically.

Q. Do you recall any Black detectives working in Area 5 at all during your tenure?

A. Yes.

Q. Can you tell me any of their names?

A. There was a Detective Crothers (phonetic) and a Detective Perkins (phonetic), I believe. I'm trying to think who else. There's more. And there's property -- property crimes had some -- had some Black detectives too, but those are the two I can recall. They worked on some homicides. That's all I can remember right now.

Q. Okay. So during your entire tenure as an Area 5 detective, the only two detectives that you recall working in Area 5 who were black, are Detective Crothers and Detective Perkins, correct?

A. Those are the only two I can name. There were others, but those are the only two I can name.

Q. Do you know -- do you have an estimate of how many others there were besides those two?

A. I don't.

Q. All right. So I asked you about the four witnesses. Do you have any independent recollection of the witness Emmitt Wade?

A. No.

Q. Do you know what Emmitt Wade looks like?

1 A. No.

2 Q. Do you know how you came to meet Emmitt Wade?

3 A. I -- we were looking to interview him and we
4 were able to obtain a -- a -- a new home address on him.

5 Q. Where did you obtain a new home address from?

6 A. I believe the report indicates that we
7 contacted a Sergeant Manos of the fugitive -- I believe
8 it was the fugitive apprehension unit, and he was able
9 to provide us with that address.

10 Q. Was Emmitt Wade a fugitive when you were
11 looking for him?

12 A. No.

13 Q. And you know this information from reviewing
14 the reports, correct?

15 A. Correct.

16 Q. Do you know why Sergeant Manos was able to
17 obtain his address and you were not?

18 A. I don't know how he did that.

19 Q. Do you know how it came to be that you asked
20 the fugitive -- I'm sorry. What did you say it was
21 called?

22 A. Fugitive apprehension unit.

23 Q. Do you know how it came to be that you asked
24 the fugitive apprehension unit for this man's address?

25 A. Well, Sergeant Manos used to work at Area 5,

1 so we were familiar with him. And I'm sure that's -- I
2 don't remember doing it, but that would be the reason we
3 contacted him.

4 **Q. And you were unable to find his address, so**
5 **you went to an outside source, Sergeant Manos, correct?**

6 A. Apparently, everything we had was old
7 addresses.

8 **Q. When did you interview Emmitt Wade?**

9 A. That was in March of '02.

10 **Q. When did you start looking or seeking to find**
11 **Emmitt Wade?**

12 A. We -- we first wanted to -- to find him after
13 speaking with Terry Rogers in February of '02. We
14 wanted to find all the other witnesses.

15 **Q. So you began to look for Emmitt Wade in**
16 **February of '02?**

17 A. Correct, and Sheenee Friend and -- and Edward
18 Cooper.

19 **Q. Did you attempt to find Emmitt Wade in 1995?**

20 A. I don't believe so.

21 **Q. Why not?**

22 A. Well, the report doesn't indicate that we
23 didn't put a -- a stop order on him. If I -- I believe
24 we first wanted to speak with Terry Rogers.

25 **Q. Okay. Again, I understand the report doesn't**

1 indicate it. Do you know why you did not seek to locate
2 Mr. Wade starting in 1995?

3 A. Well, I can assume why we didn't.

4 Q. What's your assumption?

5 A. That we first wanted to talk to Terry Rogers.

6 Q. Why do you have that -- and why do you make
7 that assumption?

8 A. Because he's -- well, we put a stop order in
9 on him. He was -- he apparently hadn't been interviewed
10 since 1990, and he was the one who brought up the name
11 of Fletcher as one of the offenders.

12 Q. Okay. So how does the fact that Terry Rogers
13 had not been interviewed since 1990 and he came up with
14 the name Fletcher, indicate to you that you wanted to
15 interview him before you interviewed Emmitt Wade?

16 A. Well, seeing he came up with that information,
17 he seemed like a -- a very important witness to -- to
18 re-interview.

19 Q. Terry Rogers?

20 A. Yes.

21 Q. Okay. But why would that inhibit you from
22 seeking to interview Emmitt Wade as well?

23 MR. STEFANICH: Objection. Form.

24 A. Well, at that point, we just felt Terry Rogers
25 was the one to speak to.

1 BY MR. STARR:

2 Q. Okay. So did you also just testify that you
3 first began looking for Sheenee Friend in February of
4 2002?

5 A. Yes.

6 Q. Okay. Why did you wait till February of 2002
7 to attempt to locate Sheenee Friend?

8 A. Well, again, we wanted to re-interview Terry
9 Rogers and put the stop order on him. Obviously, there
10 were other cases in all those years to work on and
11 continue with, but it seemed like Terry Rogers was the
12 key one to interview first.

13 Q. So is it your testimony that one of the
14 reasons you waited until 2002 to interview, or seek to
15 interview Sheenee Friend, is because you had a lot of
16 other cases?

17 MR. MICHALIK: Objection.

18 A. Well -- well, we -- obviously, in those years
19 we moved on to other things, but the main reason we
20 didn't was we felt that Terry Rogers was the first one
21 that we needed to talk to.

22 BY MR. STARR:

23 Q. But when you're investigating a cold case, is
24 time not of the essence?

25 A. Well, I would say time is more of the essence

1 of a fresh case, but you prioritize the things you --
2 you feel are the most important, and that's what we felt
3 was most important.

4 Q. That's fair. But my question is, in -- when
5 you're investigating a cold case, is time not of the
6 essence, meaning, isn't it important that you do
7 whatever you're going to do in the investigation as soon
8 as possible because the longer you wait, the older the
9 cold case is?

10 MR. STEFANICH: Objection. Form.

11 A. Again, I don't -- I don't consider the time
12 factor that important in cold cases, as much as -- as in
13 fresh cases.

14 BY MR. STARR:

15 Q. Right. And I just -- I'm not trying to
16 differentiate cold cases and fresh cases. I understand
17 that you were, in your answer, doing that, but my
18 question is just about cold cases. So when you're
19 investigating a cold case and the case is five years
20 old, and you start -- you get added to the case after
21 it's five years old, isn't it important to try to
22 investigate as much as possible, and to eliminate any
23 leads as early as possible, because the longer you wait,
24 the longer you'll be from the crime?

25 MR. STEFANICH: Objection. Form.

1 A. You do what you can, you know? You --
2 you -- you follow up what -- what you feel is the most
3 important things to do first and -- and you have other
4 cases to -- to do also. Terry Rogers was -- was on our
5 list to do first.

6 BY MR. STARR:

7 Q. When you get asked -- you get assigned to a
8 cold case, your intention is to try to solve that case
9 if possible, correct?

10 A. Certainly.

11 Q. Okay. And so when you're assigned a cold
12 case, is it not important to, as you previously
13 testified, review the file as soon as you get assigned
14 the cold case?

15 A. Well, that would be the first thing to do.

16 Q. And you review it in its entirety, correct?

17 A. Yes.

18 Q. And then you testified previously the next
19 thing you do is re-interview the witnesses, correct?

20 A. Well, every case is different, but that's
21 certainly a -- a possibility as the next thing to do.

22 Q. Well, that's what you testified you would do?

23 A. Probably.

24 Q. Okay. So my question is, if you got assigned
25 a cold case in 1995, why did you wait until 2002 to

1 interview two of the eyewitnesses?

2 MR. STEFANICH: Objection. Asked and answered.

3 You can answer again.

4 A. Well, again, we wanted to interview Terry
5 Rogers first.

6 BY MR. STARR:

7 Q. Why did you think it was important to
8 interview Terry Rogers before you interviewed any of the
9 other eyewitnesses?

10 MR. STEFANICH: Objection. Asked and answered.

11 You can answer again.

12 A. Again, because -- because of his original
13 statement naming Fletcher as an offender.

14 BY MR. STARR:

15 Q. Did you -- did you interview Terry Rogers
16 before you interviewed Edward Cooper?

17 A. Yes.

18 Q. You interviewed him --

19 A. Well, no. I'm sorry. I spoke with first
20 Edward Cooper back in '92 --

21 Q. Sure. Sure.

22 A. -- in '95.

23 Q. Okay. So you initially interviewed -- based
24 on the -- your review of the reports, you initially
25 interviewed Edward Cooper in 1995, correct?

1 A. Yes.

2 Q. So you interviewed Edward Cooper before you
3 interviewed Terry Rogers, correct?

4 A. Yes.

5 Q. Okay. So why did you choose to interview
6 Edward Cooper before you interviewed Terry Rogers?

7 A. I believe we couldn't find Terry Rogers, so we
8 did find Edward Cooper.

9 Q. Okay. But you didn't seek to find either
10 Sheenee Friend or Emmitt Wade until 2002, correct?

11 A. No. In -- in '95, we had the Fletcher Clinton
12 photograph. We showed Edward Cooper that photo array,
13 and -- and he made no identification from them. So
14 there -- there was no need to show that photo array to
15 the other witnesses.

16 Q. So you showed -- it's -- based on your review
17 of the reports, it's your understanding that in 1995,
18 you showed a photo array to Edward Cooper that included
19 a photograph of Fletcher Clinton, correct?

20 A. Yes.

21 Q. And he didn't identify anybody in that photo
22 array, correct?

23 A. That's -- that's correct.

24 Q. And because he didn't identify anyone in that
25 photo array, you chose not to show that photo array to

1 the other witnesses?

2 A. Yes.

3 Q. Why was that a good investigative decision?

4 MR. MICHALIK: Object to the form.

5 A. Because we believed that he wasn't the
6 offender.

7 BY MR. STARR:

8 Q. Based on one person's inability to identify
9 him?

10 A. Yes.

11 Q. Okay. What did Edward Cooper tell you?

12 A. This -- this is -- this is the witness who got
13 robbed, who saw them face to face, who chased after
14 them. So yes, he was an important witness.

15 Q. Right. And Sheenee Friend was also part of
16 that robbery, wasn't she?

17 A. Yes, she was.

18 Q. So why didn't you seek to interview Sheenee
19 Friend until 2002? Why did you wait that long?

20 MR. STEFANICH: Objection. Asked and answered.

21 A. Just didn't feel that that -- we wanted to do
22 that at that point.

23 BY MR. STARR:

24 Q. Okay. Why didn't you show the photo array
25 that allegedly included Fletcher Clinton to Sheenee

1 Friend in 1995?

2 MR. STEFANICH: Objection. Asked and answered.

3 A. We didn't feel he was a suspect any longer.

4 BY MR. STARR:

5 Q. Based on Edward Cooper's negative
6 identification?

7 A. Yes.

8 Q. Okay. Did -- have you ever worked on any
9 other cases where you did a photo array, and one person
10 made a negative identification, and then you didn't show
11 anyone else -- strike that. It's -- strike that. Did
12 you ever -- have you ever worked on any other cases
13 where you showed one witness a photo array, they were
14 not able to make identification, and then you showed
15 that same photo array to another witness who was?

16 A. I don't recall specifically. That's very
17 possible.

18 Q. Is it possible that Sheenee Friend could have
19 viewed the 1995 photo array and identified someone out
20 of that photo array?

21 MR. STEFANICH: Objection. Foundation. You
22 can answer.

23 A. Is it possible? Anything's possible.

24 BY MR. STARR:

25 Q. Well, the only way we'd know is if you showed

her the photo array, correct?

A. Yes.

Q. But you didn't do that?

A. No.

Q. Okay. Is it possible that Emmitt Wade could have identified somebody in the 1995 photo array?

MR. STEFANICH: Objection. Foundation.

MR. MICHALIK: And form.

A. Well, apparently not, because he said he didn't see faces.

BY MR. STARR:

Q. But you didn't show Emmitt Wade the 1995 photo array, correct?

A. No, I didn't.

Q. So you don't know whether or not he would have identified anyone, correct?

A. I don't know. I don't know what he would have done.

Q. So when you were interviewing Emmitt Wade in 2002, did he tell you that he could identify the offender involved in the Sorrell shooting?

A. No. He said he didn't see faces.

Q. And do you have an independent recollection of that?

A. No.

1 Q. And you know that how?

2 A. From the report.

3 Q. Did you ask Emmitt Wade why he previously said
4 he might be able to identify both defenders?

5 A. I don't know that he did say that.

6 Q. Well, you said you reviewed the reports when
7 you first were assigned the cold case in 1995, correct?

8 A. Yes.

9 Q. And you said you read them in their entirety,
10 correct?

11 A. Yes.

12 Q. And you said that was a very important part of
13 working on a cold case, is knowing what the other
14 investigators and the other detectives had done in their
15 investigation, correct?

16 A. Yes.

17 Q. And so if the other police had investigated
18 the case in 1990, and there was police reports that
19 reflected that Emmitt Wade had previously said that he
20 thought he could identify the offenders, you would have
21 known that, correct?

22 A. I don't believe the reports say that.

23 Q. If that was in fact the case, you would have
24 known that, correct?

25 A. If -- if that was written --

MR. STEFANICH: Objection.

A. -- on the report --

MR. STEFANICH: Objection. Form. Sorry --
objection. Form. You can go ahead.

A. If that was written on the report, I would
have known it.

BY MR. STARR:

Q. Okay. And so if the reports indicated that
Terry Wade -- sorry, strike that. If the reports
indicated that Emmitt Wade believed he could have
identified the offenders, would you have asked him why
he previously said that in 2002, when you were
interviewing him?

MR. STEFANICH: Objection. Form.

A. I might have.

BY MR. STARR:

Q. Would it be a good practice habit to confront
him and say, you previously said you could identify
them, why can you not identify them now?

MR. MICHALIK: Object to form.

A. I probably would have asked him that, yes.

BY MR. STARR:

Q. Should you have asked him that?

A. Maybe I did. I don't recall.

Q. Okay. Should you have asked him that?

1 A. But I don't believe he said that initially.

2 Q. Okay. I understand you don't recall, but I'm
3 asking you, do you think you should have asked Emmitt
4 Wade that question?

5 A. Well, again, I don't believe the initial
6 report says he said, I can identify somebody. So there
7 would be no need for me to ask that question.

8 Q. If the initial report said that Emmitt Wade
9 thought he could identify the two offenders, should you
10 have asked him in 2002, why he could no longer do so?

11 A. Well, he didn't say that, so why should I?

12 Q. I'm asking you, if they -- if the reports
13 indicated that Emmitt Wade in 1990 thought he could
14 identify the offenders, would it be important for you as
15 a detective investigating a cold case, when you
16 interviewed him in 2002, to ask him, why can you no
17 longer identify them?

18 MR. STEFANICH: Objection. Form.

19 A. It would probably have been the part of the
20 interview with him.

21 BY MR. STARR:

22 Q. Should you have asked that question?

23 MR. MICHALIK: Form.

24 MR. STEFANICH: Objection. Form.

25 A. Well, no, because he didn't say that

1 originally.

2 BY MR. STARR:

3 Q. Okay. What did Emmitt say -- what did -- what
4 did Emmitt say -- Emmitt Wade say in 1990, when he was
5 interviewed --

6 A. I'd have to --

7 Q. -- regarding what you view --

8 A. I'd have to look at the report.

9 Q. Okay. And do you have any independent
10 recollection of whether or not you believe that what
11 Emmitt Wade was telling you in 2002 was truthful?

12 A. I believe he was.

13 Q. Do you have any independent recollection of
14 believing that?

15 A. No.

16 Q. Why do you believe that now?

17 A. Well, because of what my report indicates, and
18 because we brought the state's attorney out to interview
19 him too, and she didn't -- she didn't have us do
20 anything further with Emmitt Wade, as -- as far as
21 showing photos or doing lineups. So she believed him
22 too, obviously.

23 Q. Did you show Emmitt Wade a photo array in
24 2002?

25 A. No.

1 Q. But you don't have any independent
2 recollection of that interview, correct?

3 A. No. But if -- if I had shown the photos, then
4 the report would have indicated that.

5 Q. Right. But you can't say -- other than the
6 report, you can't say one way or the other whether or
7 not you showed Emmitt Wade any photos in 2002?

8 A. I don't remember anything about the interview.

9 Q. Okay. So you conducted a photo array in 1995
10 that was negative, correct?

11 A. Yes.

12 Q. And then you conducted one in 2002 that was a
13 positive identification of Mr. Fletcher; is that
14 correct?

15 MR. STEFANICH: Objection. Form.

16 A. Yes, from Terry Rogers and Sheenee Friend.

17 BY MR. STARR:

18 Q. And Terry Rogers was the first one to
19 positively identify --

20 A. Yes.

21 Q. -- Mr. Fletcher? Okay. And then the third
22 one that you -- the third person you interviewed
23 was -- strike that. What is the sequence of interviews,
24 as you understand it, with -- in 2002?

25 A. Terry Rogers, then Edward Cooper. And I

1 believe that was the same day or the day after. And
2 then sometime later, Sheenee Friend, and sometime after
3 that, Emmitt Wade.

4 Q. Okay. And you showed Terry Rogers the photo
5 array, correct?

6 A. Yes.

7 Q. And then you showed Edward Cooper the photo
8 array, correct?

9 A. Yes.

10 Q. And then you showed the photo array to Sheenee
11 Friend?

12 A. Yes.

13 Q. But you didn't take the photo array when you
14 went out to interview Emmitt Wade?

15 A. We -- there's -- we probably had it with us,
16 but we didn't show anything to him.

17 Q. Okay. So you may have taken the photos with
18 you, but you don't -- you don't have any recollection of
19 whether you showed it to him or not, correct?

20 MR. STEFANICH: Objection. Misstates his
21 testimony.

22 A. Yeah. I don't have any recollection of the
23 interview at all.

24 BY MR. STARR:

25 Q. Okay. If Emmitt Wade -- if you had shown the

1 photo array to Emmitt Wade, and he had told you that he
2 could not identify anyone in the photo array, would you
3 have documented that?

4 A. Yes.

5 Q. After you showed Edward Cooper the photo array
6 in 1995, was there any reason to show Terry Rogers the
7 same photo array?

8 MR. STEFANICH: Objection. Form. You can
9 answer.

10 A. I don't believe so, no.

11 BY MR. STARR:

12 Q. So is it -- was it your practice when you had
13 multiple witnesses in a case, if you showed the first
14 witness a photo array and they were not able to make
15 identification, you wouldn't show any of the other
16 witnesses the photo array?

17 A. Every case is different, but in this case,
18 that's the way we felt.

19 Q. So did you have a practice regarding that
20 circumstance where you had multiple witnesses, and you
21 show the first witness a photo array, and they're unable
22 to make an identification? Did you have a practice as
23 to what you would do in that certain situation?

24 MR. MICHALIK: Object to form.

25 A. Not a practice. Every case is different. We

1 made decisions on a case-by-case basis.

2 BY MR. STARR:

3 Q. Okay. Was there anything prohibiting you from
4 showing any of the other witnesses the same 1995 photo
5 array that you showed Edward Cooper?

6 A. No.

7 Q. Once you had the other witnesses, once you
8 were in contact with the other witnesses in 2002, did
9 you show them the photo array that you showed Edward
10 Cooper in 1995?

11 A. No.

12 Q. Why not?

13 A. Well, number one, we ruled him, Fletcher
14 Clinton, out as a suspect, and the other people in the -
15 - that were in the photo array, we didn't even have
16 their photos anymore.

17 Q. How did you rule Fletcher Clinton out as a
18 suspect?

19 A. Well, as I said, because Edward Cooper didn't
20 identify him.

21 Q. Do you have any -- strike that. Did Edward
22 Cooper tell you that he wasn't sure if he could identify
23 someone in 1995?

24 A. No, he didn't say that.

25 Q. Okay. So prior to showing him a photo array,

1 he did not indicate to you that he wasn't sure about
2 whether or not he could make an ID, correct?

3 MR. STEFANICH: Objection. Asked and answer.

4 A. He didn't say that. No.

5 BY MR. STARR:

6 Q. Would you have documented that if he had said
7 that?

8 A. Yes.

9 Q. How would you have documented that?

10 A. How? I would put that in the report.

11 Q. Okay. When Emmitt Wade told you that he could
12 not identify any of the suspects, did you do anything to
13 confirm that?

14 A. I don't know what you would mean by confirming
15 that. Going by what he was telling me, that he didn't
16 see any faces.

17 Q. So Emmitt Wade told you in 2002 that he didn't
18 see any faces?

19 A. He told us, and he also told the state's
20 attorney that.

21 Q. Isn't it possible that if you could -- strike
22 that. Isn't it possible that showing Emmitt Wade the
23 photos would have refreshed his recollection?

24 MR. STEFANICH: Objection. Form. Foundation.

25 A. Not if he's saying he didn't see faces.

1 BY MR. STARR:

2 Q. So that's the cutoff for you, the fact that he
3 says he didn't see faces in 2002, right?

4 MR. STEFANICH: Objection. Form.

5 A. No. I believed it wasn't necessary to show
6 photos after he said that.

7 BY MR. STARR:

8 Q. Okay. Because earlier, I asked you about all
9 these other scenarios where, you know, someone's memory
10 might be compromised, or they might have -- they might
11 have -- time might have elapsed, and you said that in
12 those circumstances, you would -- generally, would try
13 to show them photos to see if it could refresh their
14 recollection. Here you didn't do it because Emmitt Wade
15 specifically said he never saw the faces, right?

16 A. Right --

17 MR. STEFANICH: Objection. Form. Sorry. You
18 can answer.

19 A. Right. He -- he -- he didn't say he has a
20 memory loss. He says he didn't see faces.

21 BY MR. STARR:

22 Q. Okay. Is there any other reason why you
23 didn't show the photos to Emmitt Wade?

24 A. That would be the reason. He couldn't
25 possibly identify anybody. And obviously, the state's

1 attorney didn't show him photos either.

2 Q. Why did you call the state's attorney up to
3 talk to Emmitt Wade if he told you he didn't -- he
4 didn't see the suspects' faces?

5 A. Just --

6 MR. STEFANICH: Objection. Form. You can
7 answer.

8 A. The state's attorney wants -- before they
9 charge anybody, they want us to talk to all the
10 witnesses. That was one that hadn't been talked to yet.

11 BY MR. STARR:

12 Q. So when you were -- you called the state's
13 attorney when you were in -- at Emmitt Wade's residence?
14 Where were you?

15 MR. STEFANICH: Objection. Form.

16 A. Well, the report indicates we went back with
17 the state's attorney about three or four days later, so
18 I must have had -- make arrangements with that
19 state -- state's attorney whenever she was available to
20 go out there with us.

21 BY MR. STARR:

22 Q. Did you take the photo array with you the
23 second time you went to visit Emmitt Wade?

24 A. I don't recall.

25 Q. Did the state attorney take a statement from

1 Emmitt Wade?

2 A. No.

3 Q. Do you know why not?

4 A. That's their decision totally, of whether they
5 take a statement or don't.

6 Q. As part of your practice as a homicide
7 detective interviewing case -- interviewing in
8 homicides, did you ever recommend a state's attorney
9 take a statement from a witness?

10 A. No. Again, that's their decision.

11 Q. Do you have any independent recollection of
12 Sheenee Friend?

13 A. No.

14 Q. Do you know what she looks like?

15 A. No.

16 Q. Do you have any independent recollection of
17 anything she said to you or you said to her?

18 A. No, I don't.

19 Q. Did Sheenee Friend tell you that she could
20 identify any of the offenders involved in the Sorrell
21 shooting?

22 A. Well, obviously, she did identify James
23 Fletcher.

24 Q. Did she tell you that she could identify both
25 offenders, or just one offender?

1 A. I don't recall what she said specifically.

2 Q. Did you ask Sheenee Friend in 2002 why she had
3 previously told police that she had seen the suspect
4 around the area of the shooting?

5 A. Why she told police she said --

6 Q. Yeah.

7 A. I -- I don't know why. I would have to ask
8 her why she said that.

9 Q. Did you ask her if she had previously said
10 this?

11 A. I don't remember what I've asked her. I mean,
12 the -- the report indicates her whole statement or the
13 summary of the -- the account she gave us and the
14 state's attorney.

15 Q. Did you do anything to corroborate what
16 Sheenee Friend was telling you?

17 A. Interviewed all the witnesses.

18 Q. Anything else?

19 A. No. I mean, showed her a photo array, showed
20 her a lineup, had her speak with the state's attorney,
21 gave a -- gave a handwritten statement to the state's
22 attorney.

23 Q. Where did you interview Sheenee Friend at?

24 A. I believe at Area 5.

25 Q. And after your interview with her, is that

1 when you called the state's attorney to interview her?

2 A. Yes.

3 Q. Okay. Did you recommend to the state's
4 attorney that the state's attorney should take a
5 statement from Sheenee Friend?

6 A. No. That's totally her decision.

7 Q. And you also testified that you know that one
8 of the witnesses' name is Terry Rogers, correct?

9 A. Yes.

10 Q. Do you have any independent recollection of
11 Terry Rogers?

12 A. No.

13 Q. Do you know what Terry Rogers looks like?

14 A. No.

15 Q. What efforts did you make, if any, in 1995 to
16 locate Terry Rogers?

17 A. Well, we probably did a name check and found
18 out whatever previous addresses he gave. And I assume
19 we went to those addresses looking for him.

20 Q. But you don't know that for a fact, because
21 you can't recall?

22 A. Well, it would just be the thing we would
23 naturally do to find somebody.

24 Q. Okay. So you think that you ran a name check
25 on Terry Rogers in 1995, and you think you probably got

1 his criminal history, because he does have an extensive
2 criminal history, and you think you went out to his
3 previous addresses?

4 MR. MICHALIK: Object to the form.

5 A. That's basically what we would do in any
6 investigation.

7 BY MR. STARR:

8 Q. Would you document that if you had done all
9 that?

10 A. Well, we'd document whether we -- whether or
11 not we could find him.

12 Q. Would you want to document --

13 A. We might not document specifically, I went to
14 this address, I went to that address. No, not
15 necessarily.

16 Q. Okay. Did you put an investigative alert in
17 on Terry Rogers?

18 A. Yes.

19 Q. In 1995?

20 A. In 1995, they were called stop orders. Same
21 name -- same thing, different name. In '02, they were
22 referred to as investigative alerts.

23 Q. Thanks for clarifying that for me. I didn't
24 know that. So did you put a stop order in on Terry
25 Rogers in 1995?

1 A. Yes.

2 Q. What's the effect of a stop order, or what was
3 the effect of a stop order in 1995?

4 A. Well, it's paperwork we put in with the -- I
5 believe it was the records section, where if -- if this
6 person is arrested for some other charge, to notify us
7 because we want to interview them.

8 Q. Is it a pretty easy procedure to put that
9 information -- to put that stop order in?

10 A. Yeah. In '95, it was a form you had to send
11 in. When they became investigative alerts, you could do
12 it on the computer.

13 Q. Okay. So you fill in the form, what kind of
14 information did you need to put into the form,
15 specifically, to affect the stop order?

16 A. Well, just information on the -- the person
17 you're looking for, or boxes to fill out, and a little
18 narrative as to why you wanted to talk to this person.

19 Q. Okay. So like, in terms of information about
20 the witness, you would put in their name; is that
21 correct?

22 A. Right. Name, if they have an IR number.
23 It's -- they -- well, they did. That's why you could
24 put the stop order in. And maybe previous addresses and
25 a birthday, maybe. I'm not sure all the boxes that were

1 on there, but...

2 Q. So there's a limited amount of information
3 that you would put into that form, correct?

4 A. Yes.

5 Q. All right. And then you just would send that
6 form to where?

7 A. I believe the records section.

8 Q. Okay. And you --

9 A. Or identification section, one of those two.

10 Q. And that's all you had to do?

11 A. Right. I had to sign it, I had to have a
12 supervisor sign it, and then send it in.

13 Q. And then the effect of that stop order would
14 be that if that person was stopped by the police, it
15 would -- it would alert you?

16 A. If he was arrested for something else,
17 and -- and they would let us know that he's in
18 custody --

19 Q. Okay.

20 A. -- so that we could interview him.

21 Q. And why did you put a stop order in for Terry
22 Rogers in 1995?

23 A. Because we wanted to re-interview him.

24 Q. Okay.

25 A. And we couldn't find him.

1 Q. Did you put a stop order in for Emmitt Wade in
2 1995?

3 A. No.

4 Q. Did you put a stop order in for --

5 A. Well, with Emmitt Wade, we talked to in '95.
6 There was no need to put any stop order on him.

7 Q. On Emmitt Wade?

8 A. No, I'm sorry.

9 Q. Are you thinking of --

10 A. I'm thinking of Edward Cooper.

11 Q. That's okay. I don't want you --

12 A. Emmitt Wade -- no, we didn't -- we didn't put
13 it on Emmitt Wade.

14 Q. Okay. Just so we get it clear on the record,
15 I don't want -- I don't want --

16 A. Yeah.

17 Q. -- it to be mistaken. You didn't talk to
18 Emmitt Wade in 1995?

19 A. No, I didn't.

20 Q. Okay. And you didn't put a stop order in on
21 him either?

22 A. No.

23 Q. Why didn't you put a stop order in on Emmitt
24 Wade?

25 A. As I have said before, because Terry Rogers

1 was the next one I wanted to talk to.

2 Q. Other than you wanted to talk to Terry Rogers,
3 was there any reason why you couldn't have put a stop
4 order also in on Emmitt Wade?

5 A. As long as he had previously been arrested, we
6 could have.

7 Q. Okay. And you knew that Emmitt Wade was a
8 witness to the 1990 shooting of Willie Sorrell in 1995,
9 correct?

10 A. Yes.

11 Q. Okay. So you could have put a stop order in
12 on him?

13 A. I believe so.

14 Q. And you chose not to?

15 A. Correct.

16 Q. Okay. Did you put a stop order in on Sheenee
17 Friend in 1995?

18 A. No.

19 Q. And you -- in 1995, you were aware that
20 Sheenee friend was an eyewitness to the 1990 shooting of
21 Willie Sorrell, correct?

22 A. Yes.

23 Q. And you could have put a stop order in on
24 Sheenee Friend, right?

25 A. Yes.

1 Q. In 1995?

2 A. Yes.

3 Q. But you chose not to?

4 A. Correct.

5 Q. Okay. Other than the fact that you wanted to
6 talk to Terry Rogers, was there any other reason why you
7 didn't put a stop order in on Sheenee Friend in
8 1995?

9 A. No. Just felt the next step was to talk to
10 Terry Rogers.

11 Q. Do you have an independent recollection of
12 what James Fletcher looks like?

13 A. No.

14 Q. Okay. Do you know how tall he is?

15 A. No, I don't.

16 Q. Do you know how much he weighs?

17 A. No.

18 Q. Do you know what his hair color is, or his eye
19 color?

20 A. No.

21 Q. Do you know what kind of hairstyle he had in
22 2002?

23 A. No.

24 Q. Do you know what kind of hairstyle he had in
25 1990?

A. No.

Q. When you spoke to Terry Rogers in 2002, that's the first time you spoke to him, correct?

A. Yes.

Q. Did Terry Rogers tell you that he could identify the offender or offenders involved in the Willie Sorrell shooting?

A. Well, he -- in '02, he named the offender as Jimmy Fletcher and told us he'd been in prison with him and lived in a -- in a -- a neighborhood with him.

Q. How long did it take to get him to identify James Fletcher in 2002, after you first encountered Terry Rogers in --

MR. STEFANICH: Objection. Form.

A. When we initially when -- we -- when we interviewed him in 2002, he told us the whole story.

BY MR. STARR:

Q. So as soon as you had an opportunity to sit down with him and interview him, he just proceeded to tell you the entire story; is that correct?

A. Yes.

Q. So do you have an independent recollection of how long it took for him to name James Fletcher specifically?

A. I don't, but it does -- it doesn't -- the

1 report doesn't indicate that there were multiple
2 interviews. It just indicates one interview and
3 whatever specific time that interview was done.

4 **Q. Okay. And did Terry Rogers indicate who**
5 **the other offender was besides James Fletcher?**

6 A. I don't believe he did. No.

7 **Q. Did you ask him?**

8 A. I'm sure we did.

9 **Q. Did you document the fact that you asked him?**

10 A. I don't believe report says -- well, reports
11 never say, I asked him this, I asked him that, I asked
12 him this. It does somewhat, but it's all a summary.
13 It isn't -- every question asked isn't documented.

14 **Q. But if he told you that he could not identify**
15 **the other offender, is that's something you should have**
16 **documented?**

17 A. I would have documented that. Yes.

18 **Q. Okay. Did you show him any photos of other**
19 **possible offenders when you had him in your interview?**

20 A. We had no other suspects, other than James
21 Fletcher.

22 **Q. Did you interview James Fletcher?**

23 A. Yes.

24 **Q. Did you ask James Fletcher who the other**
25 **offender was?**

1 A. Well, we asked -- we asked him if he had any
2 involvement in the homicide, which he denied.

3 Q. Right. I understand that, but did you ask him
4 -- you believed he was involved in the homicide,
5 correct?

6 A. From the information I had, I did. Yes.

7 Q. Did you ask him, when you had an opportunity
8 to interview him --

9 A. Well, I --

10 Q. -- who was the other offender?

11 A. I believed he -- he was a strong suspect.
12 After interviewing the other witnesses, then I -- I
13 absolutely believed he was the offender.

14 Q. Okay. Did you interview James Fletcher before
15 you interviewed the other suspects?

16 A. Yes, with the state's attorney.

17 Q. When was it -- when did you interview James
18 Fletcher?

19 A. Well, that -- he was -- we spoke to him in
20 February -- I don't remember the exact date -- of '02,
21 and I believe it was still February of '02 we went to
22 the prison that he was in with the state's attorney to
23 interview him.

24 Q. Did you interview Terry Rogers before you
25 interviewed James Fletcher?

A. Yes.

Q. And Terry Rogers told you that James Fletcher was one of the offenders, correct?

A. He told us that, and he identified him from a photo array.

Q. And you interviewed Edward Cooper before you interviewed James Fletcher, correct?

A. Well, we interviewed Edward Cooper back in '95.

Q. But you also interviewed Edward Cooper in 2002, prior to interview James -- interviewing James Fletcher, correct?

A. Yes. Yeah.

Q. And based on your reports, Edward Cooper also identified Mr. Fletcher in a photo array, correct?

A. No. He -- he picked his photo out and, according to the report, said that it -- it looks similar, but he's not sure.

Q. Okay. So back to my original question, you interviewed two of the witnesses prior to interviewing James Fletcher, correct?

A. Yes.

Q. And those witnesses were Terry Rogers and Edward Cooper, correct?

A. Yes.

1 Q. And so when you interviewed James Fletcher,
2 you believed that he was a suspect, correct?

3 A. Yes.

4 Q. And you believed that he was one of the
5 offenders, correct?

6 A. I believed he was a strong suspect from what
7 Terry Rogers had said. Yes.

8 Q. Okay. Did you ask him who the other offender
9 was?

10 A. Well, seeing he denied any knowledge of being
11 there or having any knowledge of the murder, there would
12 be no need for me to specifically to ask that question.

13 Q. So you didn't ask him who the other offender
14 was, correct?

15 A. Well, he said he wasn't there, so how would he
16 know?

17 Q. But you believed that he was there?

18 A. Well, at that point I did. I wasn't -- I was
19 more convinced after he was identified by other
20 witnesses.

21 Q. Okay. So the answer to my question is no, you
22 did not ask Jimmy Fletcher who the other offender was in
23 the 1990 shooting, correct?

24 A. Well, seeing he's not saying he's one of the
25 offenders or was even there or has any knowledge,

1 I wouldn't specifically ask that question.

2 Q. I understand you have an explanation for why
3 you wouldn't do it, but my question is, did you -- yes
4 or no, did you ask James Fletcher who the other offender
5 was in the 1990 shooting?

6 A. I don't recall the interview at all, but it
7 isn't a question I would've asked.

8 Q. Why is it not a question you would ask?

9 MR. MICHALIK: Objection.

10 MR. STEFANICH: Objection.

11 MR. MICHALIK: Asked and answered.

12 A. Because he is denying all knowledge of the
13 homicide.

14 BY MR. STARR:

15 Q. Did you let -- did -- no, strike that. And so
16 his denial of any knowledge of the 1990 homicide was a -
17 - was a -- enough of a reason for you to refrain from
18 asking him if he had any information about who the other
19 offender was?

20 A. There would be no reason to ask him about
21 another offender if he's not admitting being one of the
22 offenders.

23 Q. What did you do at any point in the Willie
24 Sorrell homicide investigation to investigate who the
25 other offender was?

1 A. Well, we had no information on who the second
2 offender was.

3 Q. Sheenee Friend never gave you any information
4 about who the other offender was?

5 A. Other than the description, there was no
6 information of -- as who he possibly was.

7 Q. Emmitt Wade never gave you any indication that
8 he could identify who the other offender was?

9 A. He told us he didn't see faces of either the
10 offenders.

11 Q. Terry Rogers told you that he could
12 not -- strike that. Terry Rogers never gave you any
13 indication he could identify who the other offender was?

14 A. He didn't tell us anything about who the
15 second offender was, no.

16 Q. Did you ask Terry Rogers who the other
17 offender was?

18 A. I'm sure I did.

19 Q. Did Edward Cooper give you any indication who
20 the other offender was?

21 A. No.

22 Q. Did you ask Edward Cooper if he had any idea
23 who the other offender was?

24 A. Well, he never indicated that he knew either
25 of the offenders, so there would be no need for me to

ask, specifically, that question.

Q. So you never asked him, correct?

A. No. We certainly would have gone over what he saw had occurred.

Q. When you interviewed Terry Rogers, did you ask him why he initially told police only the name Fletcher, not the name James Fletcher?

A. Yes.

Q. What did he say?

A. He said he didn't recall what he said back in 1990.

Q. Did you believe him?

A. I didn't know at that point what to believe.

Q. Did you ask him if he was lying when he previously spoke to police?

A. I don't know if I asked him that question or if I just asked him, why did you -- why didn't you just tell us it was Jimmy Fletcher who you went to prison with back in 1990?

Q. What'd he say to that?

A. Well, again, his answer was, I don't remember what I said in 1990.

Q. Do -- you don't have an independent recollection of that question or that answer --

A. No. I'm --

1 Q. -- correct?

2 A. -- just going off the report.

3 Q. Okay. So you would've asked Terry Rogers,
4 why didn't you tell police in 1990 that you knew who the
5 suspect was, correct?

6 A. To words of that effect.

7 Q. Okay. And you believe you did ask him that,
8 correct?

9 A. The report indicates that they asked him why
10 he didn't tell the officers back in 1990, the -- the
11 full name of Fletcher.

12 Q. And what is your understanding of why he
13 didn't do that?

14 A. Why he didn't say that?

15 Q. Yeah. What is your understanding of why Terry
16 Rogers refrained from telling police in 1990, that he
17 knew who the suspect was?

18 A. All I know is what the report indicates.
19 He -- he responded that he doesn't remember what he said
20 in 1990.

21 Q. Did you have any concerns in 2002 that Terry
22 Rogers might be trying to set James Fletcher up after
23 all these years?

24 A. Edward Cooper, back in 1995, had mentioned
25 that -- that he thought that Terry Rogers might have set

1 him up.

2 Q. Okay. So Edward --

3 A. Which was indicated on the report.

4 Q. Okay. So Edward Cooper told you in 1995, that
5 he was concerned that Terry Rogers might have set him up
6 in the 1990 shooting of Willie Sorrell, correct?

7 A. Yes.

8 Q. And so my question is, for you, when you were
9 interviewing Terry Rogers in 2002, and he all of a
10 sudden is telling you, I know who the suspect is, and he
11 tells you his name, did you have any concerns that Terry
12 Rogers was manufacturing that information?

13 A. Well, obviously, we -- we had to corroborate
14 what he was saying. We had to have other witnesses
15 identify James Fletcher, if -- if he was, in fact, the
16 offender.

17 Q. Okay. But did you have any concerns
18 that -- you know, given that one witness had previously
19 told you that this other witness was trying to set him
20 up, did you have any concerns that when you interviewed
21 Terry Rogers, that after 12 years of not identifying the
22 suspect, he all of a sudden identified the suspect, that
23 he was, in fact, setting up James Fletcher? Did you
24 think about that at the time?

25 MR. STEFANICH: Objection. Form.

1 A. Well, he's -- it certainly hurt his
2 credibility a little bit. That's why we had to verify
3 what he was saying with our witnesses.

4 BY MR. STARR:

5 Q. Okay. So when Edward Cooper told you in 1995
6 that he had suspicion that Terry Rogers was setting him
7 up, did that affect your opinion of Terry Rogers'
8 credibility?

9 A. Possibly, yes.

10 Q. Okay. But yet you refrained from interviewing
11 Sheenee Friend and Emmitt Wade for seven more years,
12 because you wanted to talk to Terry Rogers, right?

13 A. Yes.

14 Q. Did you ever consider whether or not Terry
15 Rogers was actually involved in the robbery that led to
16 the Willie Sorrell shooting?

17 A. Well, obviously, Edward Cooper knows Terry
18 Rogers. He would've told us if Terry Rogers one of the
19 offenders.

20 Q. Right. He told you he thought that he was
21 involved in the set-up, correct?

22 A. He thought he could have set them up, yes.

23 Q. Right. So there's two -- there's two people
24 who did the robbery, correct?

25 A. Yes.

1 Q. That doesn't mean that there was a
2 third -- there wasn't a third party involved in it,
3 right?

4 A. Correct.

5 Q. Okay. And so Edward Cooper gave you reason to
6 suspect that Terry Rogers might have been involved in
7 the robbery, correct?

8 A. Possibly.

9 Q. What did you do to investigate whether or not
10 Terry Rogers was involved in the robbery?

11 A. Well, firstly, we need to try to identify and
12 apprehend the -- the two offenders that did the robbery,
13 murder.

14 Q. Okay. But what did you do to investigate
15 whether or not Terry Rogers was also involved in the
16 crime that led to the shooting?

17 A. Well, obviously, we interviewed him, we
18 interviewed James Fletcher, and we interviewed all the
19 witnesses.

20 Q. Did you ever ask Terry Rogers if he was
21 involved in the crime that led to the shooting of Willie
22 Sorrell?

23 A. I don't specifically know what we asked him,
24 but obviously, we asked him what he had said in 1990. We
25 confronted him with that.

1 Q. Did you ever rule Terry Rogers out as a
2 suspect of someone who was involved in the crime that
3 led to the shooting of Willie Sorrell?

4 A. Well, we had nothing that would rule him in or
5 rule him out.

6 Q. Well, you did have something that could rule
7 him in, right? You had the victim telling you that he
8 thought he was involved?

9 A. His opinion, because of his background, that
10 he -- that he might be, you know.

11 Q. Is that what Edward Cooper told you, that the
12 reason he thought that Terry Rogers might be involved
13 was because of his background?

14 A. Well, he -- he did tell us he had an extensive
15 background.

16 Q. Edward Cooper told you that Terry Rogers had
17 an extensive background?

18 A. I believe the report indicates that.

19 Q. Okay. Is there anything you can tell me that
20 you did to investigate whether or not Terry Rogers was,
21 in fact, involved in the crime that led to the shooting
22 of Willie Sorrell?

23 MR. STEFANICH: Objection, asked and answered.

24 A. There's nothing that it came forward, that
25 would indicate that he was involved in it.

1 BY MR. STARR:

2 Q. Is there anything you can tell me that you did
3 to rule him out?

4 A. I didn't have anything that could rule him in
5 or rule him out.

6 Q. And you can't tell me whether or not you even
7 asked him if he was involved in the crime, correct?

8 A. I don't recall exactly what I asked him.

9 Q. Did Edward Cooper telling you that he thought
10 that Terry Rogers was involving the crime, make you
11 think that maybe -- strike that. Let me rephrase it.
12 Did learning -- strike that. Did Edward Cooper telling
13 you that Terry Rogers may have been involved in the
14 crime that led to the Sorrell shooting, did that give
15 you any reason to think that Terry Rogers might have had
16 a motive to implicate James Fletcher?

17 A. Well, if -- if -- if he was involved in the
18 whole crime, why would he name someone who did the
19 crime?

20 Q. I can't answer your question. I'm asking you,
21 do you think -- was there -- at any point in time, do
22 you think that it's possible that Terry Rogers had a
23 motive to implicate James Fletcher?

24 A. No.

25 Q. Okay. Did Detective Bogucki ever say to you,

1 I wonder whether or not -- strike that. Did Detective
2 Bogucki ever indicate to you that he thought that Terry
3 Rogers might have a motive to implicate James Fletcher
4 in this crime?

5 A. I don't know what we -- what we talked about
6 back then.

7 Q. Did you ever arrest Terry Rogers for his
8 involvement in the crime that led to the Willie Sorrell
9 shooting?

10 A. No.

11 Q. Did you ever ask James Fletcher if Terry
12 Rogers was involved in the crime that led to the Willie
13 Sorrell shooting?

14 A. Well, obviously, he told us he had no
15 knowledge of the murder, so I don't know -- there
16 wouldn't be any reason to specifically ask him that
17 question.

18 Q. So it's correct that you never asked James
19 Fletcher, was Terry Rogers involved in the crime?

20 A. Again, I -- I don't remember the interview at
21 all, so I don't know what was asked him. And the
22 state's attorney was there for the whole time. I don't
23 know whether she asked him anything.

24 Q. The state's attorney was present for your
25 entire interview with James Fletcher?

1 A. Yes.

2 Q. You only interviewed James Fletcher once?

3 A. We went and interviewed him once, and then
4 course, we brought him in for lineups, but there was no
5 interview done with him when we brought him in for
6 lineups.

7 Q. And the state's attorney was present for the
8 lineups as well?

9 A. No.

10 Q. Why not?

11 A. That's just not the procedure.

12 Q. Did Terry Rogers ever ask you for anything in
13 exchange for giving you information about the suspect in
14 the Sorrell shooting?

15 A. No.

16 Q. Did you ever promise him anything in exchange
17 for giving you information about the suspect in the
18 Sorrell shooting?

19 A. No.

20 Q. So there's no quid pro quo between you and
21 Detective Bogucki and Terry Rogers at all in this case,
22 correct?

23 A. No, there's nothing I -- I could do for Terry
24 Rogers.

25 Q. After you first spoke to Terry Rogers, did you

1 call the state's attorney in to interview him?

2 A. Yes.

3 Q. Okay. Did the state's attorney take a
4 statement from him?

5 A. Not until '02.

6 Q. You didn't talk to Terry Rogers until '02,
7 I thought?

8 A. I'm sorry.

9 Q. Yeah, it's --

10 A. Yeah. We -- we talked to him in February of
11 '02, and the state's attorney talked to him then. She
12 didn't take a statement till, I believe, it was May of
13 '02.

14 Q. How long after you interviewed Terry Rogers
15 did the state's attorney arrive, in February of '02?

16 A. Well, we went out to look for the other
17 witnesses, and showed an array to Edward Cooper, and
18 tried to find the other two, which we couldn't. So then
19 -- then we would've called the state's attorney out.

20 Q. Okay, so it was the next day?

21 A. I -- I'd have to see her report, whether she
22 came out the next day or that same day.

23 Q. Do you know why she didn't take a statement on
24 that first occasion?

25 A. That's totally her decision.

1 Q. Did she tell you why she wasn't taking his
2 statement?

3 A. No.

4 Q. Did you ask her?

5 A. I don't -- I don't remember talking to her at
6 all, but that's totally their decision.

7 Q. Okay. What investigative effort did you make
8 in February of 2002 to find Emmitt Wade?

9 A. I -- I don't recall, but I'm sure we went to
10 whatever previous addresses we had on him, and then
11 I -- I believe we put an investigative alert on him.

12 Q. We -- when you say, we went to the addresses,
13 you and Detective Bogucki?

14 A. Yes. Possibly Detective Noradin. I don't
15 know when he was working.

16 Q. What investigative efforts did you make to
17 identify -- strike that. What investigative efforts did
18 you make to find Sheenee Friend in February of
19 2002?

20 A. Well, same thing, go to whatever addresses we
21 had on her. And again, put an investigative alert on
22 her also.

23 Q. Do you have any independent recollection of
24 the witness named Edward Cooper?

25 A. No.

1 Q. Do you know what Edward Cooper looks like?

2 A. No.

3 Q. During your first interview with Edward Cooper
4 in 1995, did you show him a photograph of James
5 Fletcher?

6 A. In '95, no.

7 Q. Do you know who the photographs of the fillers
8 were, in that photo array you did in 1995?

9 A. No, I don't.

10 Q. Is it possible that James Fletcher is one of
11 those photographs?

12 A. I don't know why he would be.

13 Q. But you can't say one or the other, correct?

14 A. I just don't know who the other fellows were.

15 Q. Okay. And do you -- it's your understanding
16 that you had first interviewed him in 1995 at his
17 residence, correct?

18 A. Yes.

19 Q. And do you -- is it your testimony that
20 Detective Bogucki was with you during that photo array?

21 A. Detective Bogucki and possibly Detective
22 Noradin. No, I believe it was just our two names on
23 that report, so it would have just been myself and
24 Detective Bogucki.

25 Q. So given your practice, in that particular

1 photo array, what you would've done is got the photo of
2 Fletcher Clinton, and then tried to find your own photos
3 that you have that were similar looking? Is that --

4 A. I mean --

5 Q. -- is that what your practice would've been?

6 A. I mean, it's -- it's possible that Detective
7 Rutherford and McDonald gave us a whole array also.
8 I don't remember, but -- whether they gave us one, and
9 we put together array, or whether they gave us a whole
10 array to use, I don't know.

11 Q. Did you ask Detectives McDonald and Rutherford
12 how they came up with this Fletcher Clinton name?

13 A. I -- I don't recall. I -- I assume they did
14 some computer checking for someone named Fletcher.

15 Q. So you don't know how they came up with the
16 name Fletcher Clinton, right?

17 A. I don't recall, no.

18 Q. Have you talked to Detective Rutherford about
19 this case at all in the last ten years?

20 A. No.

21 Q. Have you talked to Detective Rutherford at all
22 about this case since 2005 when you testified?

23 A. No.

24 Q. Okay. There was a post-conviction proceedings
25 in this case. Are you aware of that?

1 A. Well, I assume there was something that let
2 him out of jail, so...

3 Q. Were you -- were you asked to testify at all
4 by anyone in that case?

5 A. No.

6 Q. Did anyone reach out to you regarding the
7 post-conviction proceedings at any point?

8 A. No.

9 Q. Prior to showing Edward Cooper the photo array
10 in 1985, did you ask him whether or not he could
11 identify the suspect?

12 A. I don't know what we asked him back in '95.

13 Q. As part of your regular practice, would you
14 ask the witness, do you think you can identify?

15 A. We would -- I would -- practice would be
16 to -- to ask him, you know, what -- what he remembered,
17 what -- what happened. I know the report indicates that
18 he was -- he was still very cooperative, so he must have
19 indicated that -- some ability to identify.

20 Q. Yeah. So I understand you don't have an
21 independent recollection of it, so just so my question's
22 clear. As a matter of practice, when you're -- when you
23 would go out to do a photo array with somebody who was a
24 witness, who had indicated that they saw the suspect,
25 right, would you, before showing them photos, say to

1 them, did you see the suspect?

2 A. We probably would've gone over what occurred
3 back when the crime happened.

4 Q. Okay. And then would you ask them, do you
5 think you can identify the suspect?

6 A. We might have, yes, asked him that.

7 Q. Okay. And that's preliminary before you show
8 the photo array, correct?

9 A. Yeah. I wouldn't necessarily have to ask him
10 that specific question, but I could've.

11 Q. Okay. Do you know -- did you -- did you call
12 Edward Cooper on the phone before you went out to his
13 house, or did you just go to his residence?

14 A. I don't remember.

15 Q. Okay And it's your understanding that Edward
16 Cooper, in 1995, could not identify any of the people
17 in the photo array that you showed him, correct?

18 A. Correct.

19 Q. And then you did another photo array with
20 Edward Cooper in 2002, right?

21 A. Yes.

22 Q. Okay. Who conducted that photo array?
23 Was it -- was it you or was it Detective Bogucki?

24 A. I assume it was both of us. Detective Noradin
25 could have been present too, I don't know, but it

1 would've been at least me and Detective Bogucki.

2 Q. Right. You worked with Bogucki for a long
3 time. Did you guys have an established practice when
4 you did a photo array, that one of you would hold the
5 photos and put them out, and one of you do the talking?

6 A. Not necessarily.

7 Q. Okay. So different, each circumstance?

8 A. Right.

9 Q. All right. So in the 1995 photo array, do you
10 know whether or not you showed the photos to Mr. Cooper,
11 or Detective Bogucki showed the photos?

12 A. I don't know. We both would've been there,
13 but I don't know who actually, physically held the
14 photos.

15 Q. Okay. Do you know, in the 2002 one, which one
16 of you would've had the physical photos in your hands?

17 A. When was it?

18 Q. In the 2002 photo array, do you know --

19 A. Oh.

20 Q. -- whether it was you or Bogucki that held --

21 A. No, I don't.

22 Q. -- the photo array?

23 A. No, I don't.

24 Q. Okay. And during the 2002 photo array, did
25 Edward Cooper identify anyone?

1 A. Well, he picked out James Fletcher's photo,
2 but -- saying that he looked similar, he -- he couldn't
3 be sure.

4 Q. Did Edward Cooper -- before you showed him the
5 photos, did Edward Cooper tell you, I don't think I can
6 identify anyone?

7 A. I don't remember him ever saying that.

8 Q. When -- once the photos were shown to Edward
9 Cooper, did Edward Cooper tell you, I can't identify
10 anyone?

11 A. It's not indicated in the report, so
12 obviously, he didn't say that.

13 Q. Okay. And then did either you or Detective
14 Bogucki point at any of the photos and say, that's a
15 suspect?

16 A. No, we never do that.

17 Q. Did you or Detective Bogucki tell Edward
18 Cooper in 2002, that two other witnesses had already
19 identified James Fletcher as the suspect?

20 A. No, we would never do that.

21 Q. Did you or Detective Bogucki tell Edward
22 Cooper to look at the suspect's -- strike that. Did you
23 or Detective Bogucki tell Edward Cooper, look at this
24 person's lips, those look like the lips of this suspect?

25 A. No, we would never say that.

1 Q. Do you know that Edward Cooper has given a
2 deposition in this case?

3 MR. STEFANICH: Objection.

4 MR. STARR: Yeah. If you'll --

5 MR. STEFANICH: Attorney-client privilege.

6 MR. STARR: Let me rephrase it.

7 MR. STEFANICH: Don't answer the question.

8 BY MR. STARR:

9 Q. Edward Cooper gave a deposition in this case.
10 If -- strike that. Do you know if Edward Cooper gave a
11 deposition in this case? And if you only know it
12 because your attorney told you, I don't want you to
13 reveal any attorney-client privilege.

14 A. That's the only reason I know, is from my
15 attorney.

16 BY MR. STARR:

17 Q. Okay. If I told you that Edward Cooper,
18 during his deposition in this case, testified that he
19 told you and Detective Bogucki, in 2002, when you came
20 to his home to do a photo array, that he could not
21 identify the suspect before you showed him the photos,
22 would that surprise you?

23 A. You --

24 MR. STEFANICH: Objection. Attorney-client
25 privilege. I'm going to instruct you not to answer.

1 I think you're going to need to rephrase this.

2 MR. STARR: I just said -- I don't think that's
3 privileged. I just asked him if he would surprise
4 him. I told him -- can you read the question back?

5 THE REPORTER: Uh-huh.

6 MR. STEFANICH: Sorry.

7 THE REPORTER: You're okay.

8 (REPORTER PLAYS BACK REQUESTED QUESTION)

9 MR. STEFANICH: Yeah. I think it gets at
10 conversations I've had with my client. I don't know
11 how he can answer that as he sits here today.

12 MR. STARR: Let me try to rephrase it --

13 MR. STEFANICH: Okay.

14 MR. STARR: -- because I don't -- like, him
15 being surprised is not -- that's a -- that's a
16 reaction that he may have, not a reaction that you
17 would tell him to have, but --

18 MR. STEFANICH: Right.

19 MR. STARR: Let me just ask -- let me brief --
20 let me rephrase it.

21 MR. STEFANICH: The time, the timing I think is
22 the issue, right?

23 MR. STARR: I don't -- I'm not sure if I
24 understand. Maybe we can -- let me just try to
25 rephrase it --

MR. STEFANICH: Okay.

MR. STARR: -- and if we can't get it,
we'll -- we can go over it --

MR. STEFANICH: Okay.

MR. STARR: -- and discuss it a little more.

BY MR. STARR:

Q. I want to represent to you that Edward Cooper
was deposed in this case. Okay, sir?

A. Uh-huh.

Q. And I'm going to represent to you that Edward
Cooper came in here, gave a deposition, and among other
things, stated that when you and Detective Bogucki came
to his home in 2002, he told you he couldn't identify
anyone, okay?

MR. STEFANICH: You can -- that's just the
representation he's making to you. So you can
answer that.

A. Well, he -- he never told us that.

BY MR. STARR:

Q. Okay. I'm just -- I want to tell you that
that's what he testified to in this case. Do you
understand that representation?

A. If that's true, then I understand that.

Q. Okay. Does it surprise you to hear that
Mr. Cooper testified that he told you that he couldn't

1 identify anyone?

2 MR. STEFANICH: Yeah, I'm going to object.

3 Maybe we can just go off the record.

4 MR. STARR: Okay.

5 MR. STEFANICH: Because I think maybe --

6 MR. STARR: Well, make your objection.

7 Let's --

8 MR. STEFANICH: I'm going to object to
9 attorney-client privilege, instruct him not to
10 answer. Let's go off the record.

11 MR. STARR: Okay.

12 THE VIDEOGRAPHER: We are going off the record.

13 The time is 3:25 p.m.

14 (OFF THE RECORD)

15 THE VIDEOGRAPHER: We are back on the record.

16 The time is 3:26 p.m.

17 BY MR. STARR:

18 Q. All right. Mr. Schalk, I'm going to represent
19 to you that Edward Cooper testified in this civil
20 matter. Recently, he gave a deposition. And among
21 other things, he testified that, one, when you and
22 Detective Bogucki arrived at his residence in 2002,
23 he told you he wasn't going to be able to make an
24 identification, okay? Do you understand that
25 representation?

1 A. Okay.

2 Q. Was Edward Cooper lying when he testified to
3 that in this case?

4 A. Yes.

5 Q. Okay. I'm going to also represent to you that
6 Edward Cooper also testified that you and Detective
7 Bogucki told him that two other witnesses had made an
8 identification prior to your arrival at his home in
9 2002, and that those two witnesses were Sheenee Friend
10 and Emmitt Wade, okay?

11 A. Okay.

12 Q. Was Mr. Cooper lying when he testified to that
13 in this case?

14 A. Yes.

15 Q. Okay. I'm going to also indicate to you,
16 represent to you, that during his testimony, Mr. Cooper
17 testified that when you showed him the photos, you put
18 them down on his floor and you asked him to look at the
19 photos, and he said he couldn't make an identification.
20 And that one of the two of you, either you or Detective
21 Bogucki, pointed at a photo and said, that's the
22 suspect. Do you understand that representation?

23 A. Yes.

24 Q. Was Mr. Cooper lying when he testified to that
25 in this case?

1 A. Yes.

2 Q. Okay. Can you think of any reason why
3 Mr. Cooper would be lying today about what he -- what
4 happened in 2002 when you visited him to show him a
5 photo array?

6 MR. STEFANICH: Objection. Foundation. You
7 can answer.

8 A. Well, I -- I can only guess that he doesn't
9 want to be any part of this.

10 BY MR. STARR:

11 Q. Well, he willingly came to the deposition.
12 Can you -- can you think of any other reason why he
13 might be lying today?

14 A. Does anybody willing come to these
15 depositions?

16 MR. STEFANICH: Yeah.

17 BY MR. STARR:

18 Q. I mean, you did, right?

19 A. Yeah, kind of.

20 Q. So other than -- other than he maybe didn't
21 want to be a part of this, he was a part of it, he came
22 to testify. Can you think of any other reason why
23 Mr. Wade would lie -- or Mr. Cooper would lie?

24 MR. STEFANICH: Objection. Foundation. You
25 can answer.

1 A. Well, like I say, all I can think of is he
2 wants no part of this lawsuit.

3 BY MR. STARR:

4 Q. Okay. If I represented to you that before the
5 criminal trial, Mr. Cooper was contacted by a private
6 investigator who asked him about his identification, and
7 at that time, approximately in 2004, at that time, he
8 also indicated that he couldn't identify the suspect,
9 would that surprise you?

10 MR. STEFANICH: Objection. Foundation. I
11 think it misstates its testimony too, so form. You
12 can answer.

13 A. Yes, it would surprise me, and I -- I
14 certainly would've liked to have hear the -- heard the
15 conversation between the private investigator and
16 Mr. Cooper.

17 BY MR. STARR:

18 Q. Okay. Was Mr. Cooper lying in 2004 when he
19 said he couldn't identify the suspect?

20 MR. STEFANICH: Objection --

21 A. In 2000 --

22 MR. STEFANICH: -- form. Objection. Form.
23 You can answer.

24 A. In 2004, when...?

25 BY MR. STARR:

1 Q. When he told the private investigator that he
2 couldn't identify Mr. Fletcher, was he lying?

3 A. Well, yes, he -- he obviously told us, told
4 the state's attorney, told the jury that convinced
5 Mr. Fletcher, that he was the offender.

6 Q. So he was lying, correct?

7 A. Apparently.

8 Q. After you interviewed Mr. Cooper in 2002 and
9 showed him the photo array, did you contact the state's
10 attorney?

11 A. I believe we first tried to find Sheenee
12 Friend and Emmitt Wade, and then contacted the state's
13 attorney.

14 Q. Okay. So after you -- after you interviewed
15 Rogers, interviewed Cooper, and then tried to find the
16 other two witnesses, that's when you contacted the
17 state's attorney and told her everything you had learned
18 thus far?

19 A. Yes.

20 Q. Did you do anything -- strike that. As you
21 sit here today, do you know whether or not James
22 Fletcher is guilty or innocent of the Willie Sorrell
23 murder?

24 MR. STEFANICH: Objection. Foundation.

25 A. Well, from -- after interviewing the

witnesses, I believed he was guilty.

BY MR. STARR:

Q. Okay. That was -- that's not what I'm asking, though. As you sit here today, do you know whether or not he's guilty or innocent?

MR. STEFANICH: Objection. Foundation.

A. I have heard nothing to change my opinion of what -- that -- that he is guilty.

BY MR. STARR:

Q. Okay. So does the fact that Edward Cooper now says that he never could identify the suspect change your opinion at all about whether or not James Fletcher is guilty or innocent?

A. No. Seeing he -- he told us, he told the state's attorney, he told the jury that convicted him, that he was the offender. Whether he says it now under duress of this lawsuit, you -- you know, that doesn't change my opinion.

Q. Okay. There's a couple other things I forgot to mention about Mr. Cooper. I'm going to represent to you that during his civil deposition in this case, he also testified that when he was looking at the photos, after he told you that he couldn't identify the suspect, either you or Detective Bogucki told him, look at the lips, and pointed at the lips of James Fletcher's

1 photograph.

2 A. We never would've done that.

3 Q. Okay. So he's lying when he testified to that
4 in this case --

5 A. Yes.

6 Q. -- correct? Okay. Mr. Cooper also testified
7 that when he came to view a lineup in 2002, that he
8 encountered a Black police detective at Area 5, who told
9 him that James Fletcher was a bad guy, that he had done
10 this previously. Do you know who that person was?

11 A. There was no Black detective involved in this
12 case, at all.

13 Q. But there -- you testified already, there were
14 Black detectives in Area 5 in 1995, correct?

15 A. There were, yes.

16 Q. Okay. So you don't know whether or not a
17 Black detective talked to James Fletcher -- talked to
18 Edward Cooper in 1995, correct?

19 A. I believe I would've known that if it had
20 happened.

21 Q. But you didn't observe it, correct?

22 A. I didn't observe it, no.

23 Q. So you don't -- you can't say one way or
24 another if a Black detective approached Mr. Cooper in
25 1995, prior to him viewing a lineup and told him, the

1 guy that you're -- the suspect you're here to identify,
2 James Fletcher, is a bad guy who's done this before?

3 A. No, there -- there was nobody else involved
4 at -- at -- during that lineup, other than myself,
5 Detective Bogucki, Detective Noradin. There was no
6 Black detective ever involved in this case.

7 Q. He -- Mr. Cooper testified that it was before
8 he went in to view the lineup, that he'd spoke to this
9 Black detective.

10 A. There would've been no detective talking to
11 him.

12 Q. Okay.

13 A. Black detective talking to him.

14 Q. But you can't say one way or another because
15 you didn't -- you don't -- you didn't observe that,
16 correct?

17 MR. STEFANICH: Objection, asked --

18 A. I believe I would've --

19 MR. STEFANICH: Objection, asked and answered.

20 THE WITNESS: Oh, I'm sorry.

21 MR. STEFANICH: Go ahead.

22 A. I believe I would've observed it, if it had
23 happened.

24 BY MR. STARR:

25 Q. But you have no independent recollection of

1 any interaction with Mr. Cooper, or Mr. Cooper's
2 presence at Area 5 for the lineup, correct?

3 A. Correct.

4 Q. Okay. I'm also going to represent to you that
5 Mr. Cooper also testified in this civil case that prior
6 to viewing the lineup, either you or Detective Bogucki
7 reminded him about who the suspect was.

8 A. No, we never would do that.

9 Q. So he's lying when he testified to that?

10 A. Yes.

11 Q. Okay. As you sit here today, please tell me
12 all of the evidence that you're aware of, that
13 implicates James Fletcher in this Willie Sorrell
14 shooting?

15 A. Okay. Officially, Terry Rogers identified him
16 as one of the offenders. And of course, his background
17 indicates he has a history of murder and armed
18 robberies. We -- initially, Edward Cooper picked him
19 out of a photo as looking similar, and then positively
20 identified him in lineups. Sheenee Friend positively
21 identified him in lineups. Emmitt Wade, although he
22 didn't see the face of the offender, he corroborates
23 the account of what the witnesses said happened.

24 Q. Anything else?

25 A. I think that's it.

1 **Q. What in James Fletcher's background indicates**
2 **to you that he's guilty of this crime?**

3 MR. STEFANICH: Objection, asked and answered.

4 A. Well, nothing would indicate that he's guilty
5 of this crime. It certainly would make him a suspect
6 that -- that he has a history of doing murder and armed
7 robbery.

8 BY MR. STARR:

9 **Q. So what specifically in his background**
10 **indicates that to you?**

11 A. Previous arrests.

12 **Q. Which arrests?**

13 A. Murder and armed robbery.

14 **Q. Okay. What year was that arrest? Do you**
15 **know?**

16 A. I'd have to look at his sheet to know.

17 **Q. Okay. And then you also said that Emmitt Wade**
18 **corroborates everything the witnesses said. What do you**
19 **mean by that?**

20 A. Well, he corroborate --

21 MR. STEFANICH: Object -- objection. Misstates
22 his former testimony. You can answer.

23 BY MR. STARR:

24 **Q. Did I misstate that?**

25 A. Well, he was -- he was able to corroborate

1 what he saw. His part of what he saw corroborates what
2 the witnesses occurred, or said occurred.

3 **Q. What did Emmitt Wade tell you that**
4 **corroborates what the witnesses saw?**

5 A. That he saw -- I believe he says he saw two
6 offenders, you know, running from the bread truck, and
7 then the bread truck driver going after them and
8 shots -- shots were exchanged between the offenders.
9 And -- and the bread truck driver and that the victim
10 who was on the sidewalk was hit with the bullet from the
11 offenders.

12 **Q. Wade told you-all that?**

13 A. That's in the initial report. And I'm sure we
14 would've also gone over that with him, too.
15 And, of course, he told the state's attorney this.

16 **Q. Did Emmitt Wade give a statement to the**
17 **state's attorney?**

18 A. No.

19 **Q. What information did you have that gave you**
20 **probable cause to arrest James Fletcher in 2002?**

21 A. Well, we -- we had the identification by three
22 eyewitnesses.

23 **Q. Anything else?**

24 A. The corroboration of a fourth witness.

25 **Q. Did Terry Rogers ever view a lineup?**

1 A. No.

2 Q. Why not?

3 A. The -- apparently, the state's attorney didn't
4 feel it was necessary. He had done a photo array when
5 he was brought in again back in, I believe, it was
6 May of '02. The state's attorney took a statement from
7 them, but the lineup wasn't done, so apparently, they
8 didn't feel it was necessary. Because state's attorney
9 would've told us that before charge or would've told us
10 to do a lineup, if they felt it was necessary.

11 Q. Did the state's attorney tell you to do a
12 lineup with the witnesses, Sheenee Friend and Edward
13 Cooper?

14 A. I don't know if she specifically said that or
15 we just knew that was what we should do.

16 Q. When I asked you earlier about whether or not
17 the state's attorney was present for the lineup,
18 I thought you said that the state's attorney has nothing
19 to do with the police conducting a lineup. Is that not
20 correct?

21 A. They're never present for a lineup.

22 Q. Okay. So you chose to do a lineup with
23 Everett Cooper as a witness, correct?

24 A. Yes.

25 Q. And you chose to do a lineup where you showed

1 **Sheenee Friend in the lineup, correct?**

2 A. Yes. I mean, the state's attorney may have
3 directed us to do that also, but it's -- we certainly
4 know we -- we have to do that.

5 **Q. But you have no recollection of the state's**
6 **attorney telling you that, correct?**

7 A. No, it's just -- that's the procedure.
8 They -- they tell us what they feel needs to be done
9 before they want to charge somebody.

10 **Q. So as a matter of practice, you don't -- you**
11 **don't put together lineups without the state's attorney**
12 **instructing you to do so?**

13 A. No, we do that, too.

14 **Q. Okay. So you don't know, in this case,**
15 **whether or not you did the lineups with -- at the**
16 **direction of the state's attorney or not, correct?**

17 A. I don't recall specifically talking to her
18 about it.

19 **Q. And you don't know whether or not you did the**
20 **lineups in this case by your own volition, correct?**

21 A. By my own volition? It's part of the
22 investigation.

23 **Q. Right. And so if I didn't phrase it**
24 **correctly, I'll rephrase it. You don't know whether or**
25 **not you and Detective Bogucki put together the lineup**

1 for the witnesses Friend and Cooper to view on your own,
2 correct?

3 A. I -- I don't know what you're saying here.

4 Q. Yeah. So let me ask it again. So you -- can
5 you -- do you know whether or not -- strike that. You
6 do not know whether or not -- strike that. It's
7 possible that you and Detective Bogucki decided to show
8 Friend and Cooper the lineup without the instruction of
9 the state's attorney, correct?

10 A. Well, seeing the state's attorney was involved
11 with some -- for a time period before that,
12 I assume -- I assume that we would've discussed with the
13 state's attorney what all needed to be done.

14 Q. But you don't have a recollection of that one
15 way or the other, right?

16 A. I don't remember our conversation.

17 Q. Okay. So you may have just chosen not to show
18 Terry Rogers a lineup, correct?

19 A. It -- it's possible. Well, we couldn't find
20 Terry Rogers, too. He had to -- you know, he -- he had
21 to be arrested again back in May to be re-interviewed,
22 so we probably couldn't find him in April to look at the
23 lineup.

24 Q. So let me make sure I got the timeline correct
25 here. So February of 2002, you interviewed Terry Rogers

1 and he, in a photo array, identifies my client, James
2 Fletcher, correct?

3 A. Yes.

4 Q. And then that same night, or the next day,
5 you go and interview Edward Cooper and show him a photo
6 array where he does a tentative identification, correct?

7 A. Yes.

8 Q. And then the next day is when you get in touch
9 with or you locate -- sorry, the next day is when you
10 locate James Fletcher?

11 A. No. Well, the state's attorney would've --
12 would've come out to talk to Terry Rogers either that
13 day or the next day. And then we made arrangements
14 for -- I forget the exact dates, several days later to
15 interview him in the -- in the Graham Correctional
16 Center.

17 Q. Okay. And then you did a lineup in early
18 April, correct?

19 A. April 20th.

20 Q. Okay. And you're telling me today, you're
21 testifying today, that you did not have Terry Rogers
22 view the lineup because you couldn't locate him?

23 A. Well, I -- I believe that's why he didn't look
24 at the lineup in April 20. After he was located,
25 obviously, we didn't do a lineup, so apparently the

1 state's attorney felt it was unnecessary, seeing he
2 already did the photo array.

3 Q. And that's just an assumption you're making,
4 because you don't have a recollection of that, correct?

5 A. No. I -- I just know that if the state's
6 attorney said we need to do a lineup with Terry Rogers,
7 we would've done that and it's not on -- in the reports
8 of doing it.

9 Q. Right. But my question was: When you did the
10 lineups in April 2002, you didn't have Terry Rogers view
11 the lineup because you couldn't find him. Is that your
12 testimony?

13 A. The report doesn't indicate that, but that
14 would -- I would guess that's the case.

15 Q. Okay. So you gave me -- when I asked you
16 about what was the probable cause you had to arrest
17 James Fletcher, you said that the identification by the
18 three witnesses and the corroboration by Emmitt Wade,
19 correct?

20 A. Yes.

21 Q. Any other probable cause that you had to
22 arrest James Fletcher when you did?

23 A. I believe that -- that's quite a bit of
24 probable cause right there.

25 Q. Okay. At any later point in time, did you

1 learn of additional information that gave you further
2 probable cause to suspect James Fletcher of the Willie
3 Sorrell shooting?

4 MR. STEFANICH: Objection. Form. You can
5 answer.

6 A. Anything additional? I don't believe
7 any -- anything additional came in.

8 MR. STARR: Okay. Let's take a five-minute
9 break.

10 MR. STEFANICH: okay.

11 THE VIDEOGRAPHER: We are going off the record.
12 The time is 3:44 p.m.

13 (OFF THE RECORD)

14 THE VIDEOGRAPHER: We are going on the record.
15 The time is 3:59 p.m.

16 BY MR. STARR:

17 Q. All right. Mr. Schalk, I want to show you
18 just a couple of documents here really briefly. I want
19 to mark this first exhibit as Exhibit number 1 and for
20 the record, it's Bates stamp Fletcher 796. You have it
21 preloaded? Cool. All right, Mr. Schalk, that's an
22 individual page photocopy of a photograph. Take a look
23 at that and let me know when you're ready to answer a
24 couple questions about it.

25 (EXHIBIT 1 MARKED FOR IDENTIFICATION)

1 A. Okay.

2 BR MR. STARR:

3 Q. Do you -- did you have time to review this
4 photograph?

5 A. Yes.

6 Q. Do you recognize this person?

7 A. No.

8 Q. Okay. And this is a -- does this appear to
9 you to be a Chicago Police Department mugshot?

10 A. Yes.

11 Q. Okay. And when we were talking about
12 photographs that you had, and that the detectives in
13 Area 5 had that they used for fillers, and we were
14 talking about mugshots, is this what a mugshot looks
15 like?

16 A. Yes.

17 Q. Okay. Is this the type of photograph that you
18 would have in your desk or your collection of potential
19 filler photographs?

20 A. Yes.

21 Q. Okay. Is it -- is this photograph possibly
22 one of the photographs that you showed Edward Cooper
23 when you did the photo array in 1995?

24 MR. STEFANICH: Objection. Form and
25 foundation.

1 A. I don't know if it was this one or not.

2 BY MR. STARR:

3 Q. Okay. You can't say one way or the other,
4 correct?

5 A. Correct.

6 Q. Okay. But this is what the photographs, the
7 mugshots that you showed Edward Cooper in 1995 would've
8 looked like?

9 A. I believe so, yes.

10 Q. Okay. You can put that to the side for a
11 second, sir. I'm going to show you what we'll mark as
12 Exhibit number 2 and for the record, the Bates is City
13 JF-86 through 96. Take a look at that. It's a couple
14 page document and we'll talk about it in just a minute,
15 sir. I'm not sure. It may be double-sided, sir, just
16 so -- just so you know.

17 (EXHIBIT 2 MARKED FOR IDENTIFICATION)

18 A. Yeah. Okay.

19 BY MR. STARR:

20 Q. You have an opportunity to review it?

21 A. Yes.

22 Q. Okay. Have you seen this document before,
23 sir?

24 A. Yes, I have.

25 Q. When have you seen this document?

1 A. In the -- when I was given a copy of
2 the -- the whole file.

3 Q. Okay. So did you review it in preparation for
4 today's deposition?

5 A. I've seen it before. I looked at it.

6 Q. Okay. It was part of the file, the police
7 file that you looked at and reviewed in preparation for
8 today?

9 A. Yes.

10 Q. Okay. For the record, can you tell me what
11 this document is?

12 A. Well, it's -- it's a -- a computer search.
13 I forgot -- I don't recall what they called it.
14 This -- this was a RAMIS search, or how the name was,
15 but it's a search the last name of Fletcher, a male,
16 Black, last name of Fletcher. But apparently, the
17 computer also spit out names other than Fletcher on
18 here, all names beginning with F. And it doesn't --
19 there's no indication as -- as to who printed this out
20 or when it was printed.

21 Q. That was my next question. You don't see your
22 name on this document anywhere, correct?

23 A. Correct.

24 Q. Do you have any independent recollection of
25 generating this request?

1 A. No, I don't.

2 Q. Your -- Detective Bogucki testified that he
3 thought maybe this was the Fletcher name search that you
4 ran before going out to see Edward Cooper in 1995. Is
5 that possible?

6 A. Again, I -- this doesn't indicate when this
7 was run or by who, so I don't know.

8 Q. But is it possible, though, this is the name
9 search that you ran on Cooper's -- strike that. Is it
10 possible that this is the name search that you ran prior
11 to going out to Edward Cooper's residence in
12 1995?

13 MR. STEFANICH: Objection. Asked and answered.

14 MR. MICHALIK: Object to form.

15 A. I don't know why it would've been '95.
16 We -- we were given a suspect's photo by Rutherford and
17 McDonald. I don't know of -- if -- why we -- we
18 would've done this in '95.

19 BY MR. STARR:

20 Q. I just want to make some clarification. So is
21 it your testimony now that McDonald and Rutherford
22 actually gave you Clinton Fletcher's [sic] photograph in
23 1995?

24 A. Well, I -- I -- I -- the report doesn't
25 indicate whether they physically handed us the photos,

1 or allowed us to show his photo in an array.

2 Q. Yeah. I thought your previous estimate was
3 you weren't sure if he gave you the name or the
4 photographs?

5 A. I believe the report doesn't indicate which
6 one it was, so I'm not sure.

7 Q. If either Detective McDonald or Rutherford ran
8 a search for Fletcher's name prior to giving you that
9 information, is that something that they would've been
10 expected to include in the file?

11 A. Well, obviously, this was included in the
12 files, but they wouldn't necessarily have to write a
13 report saying they did that.

14 Q. Okay. That's fair. And I didn't ask about a
15 report, but just if they ran a search for Fletcher's
16 name prior to giving you that information, is that
17 something that they would've included in the file, the
18 search itself, like this?

19 MR. STEFANICH: Objection. Foundation.

20 You can answer.

21 A. Well, whoever and whenever this was done, it
22 was obviously included in the file.

23 BY MR. STARR:

24 Q. Right. So if you're working on a homicide
25 investigation and you run a name search, and it

1 generates a bunch of names, are you -- is there an
2 expectation that you include that name search in the
3 investigative file?

4 MR. MICHALIK: Object to form.

5 A. I would.

6 BY MR. STARR:

7 Q. Okay. And do you have an opinion of Detective
8 McDonald and Rutherford's work as police officers?

9 A. Yes. They're -- they were competent
10 detectives.

11 Q. So you would expect them if they ran a name
12 search, to include that name search in the investigative
13 file, correct?

14 MR. MICHALIK: Object to form and foundation.

15 A. I would -- I would expect them to, yes.

16 BY MR. STARR:

17 Q. Okay. And I think you said a minute ago that
18 this might be a RAMIS search. Is that what you said?

19 A. Yeah. I -- I don't remember anymore what
20 the -- a RAMIS search looked like. I mean, that name
21 isn't on this -- this report so maybe it's not,
22 but it's -- it's a criminal record search as indicated
23 on the top of the report.

24 Q. Do you have any independent recollection of
25 reviewing this report when you first got assigned the

1 cold case?

2 A. No, I don't.

3 Q. Okay. Do you see that there's a -- there's
4 like a list. Each page is list of names and then on
5 some of the pages, the names have -- some of the names
6 have little what appear to be pen dots next to them.
7 Do you see that?

8 A. Yes.

9 Q. And the first one on the first page on 86 is
10 Maurice Fletcher?

11 A. Yes.

12 Q. You see that? And then on the second page,
13 there's a Mose Fletcher that's got a little dot next to
14 his name, right?

15 A. Right.

16 Q. And then on the third page, on page 88,
17 there's two dots, one next to Devery, and one next to
18 Henry. Do you see that?

19 A. Yes.

20 Q. And then if you go back to the second page
21 there's another dot next to the third one down, next to
22 James Fletcher's name. Do you see that?

23 A. I do.

24 Q. Okay. Do you do -- you know why those little
25 dots are on -- next to certain names, and not on -- next

1 to others?

2 A. I have no idea.

3 Q. Do you know what the little dots indicate?

4 A. I do not have any idea of that.

5 Q. Is it possible that those little dots indicate
6 people that were potential pieces -- people of inquiry
7 in this investigation?

8 MR. MICHALIK: Object to form.

9 A. Again, I don't -- I don't know why those dots
10 were put there. It -- it's not something that I would
11 do. I would -- if it was -- if it's indicating somebody
12 to look further into, I would underline them, or get a
13 yellow highlighter and highlight them. So I -- I don't
14 believe that I could put those dots there, but I don't
15 know what purpose there -- there was.

16 BY MR. STARR:

17 Q. Okay. So if you had run a search like this,
18 and there was names on that list that you wanted to do
19 some further investigation on, your practice would be to
20 highlight them with a yellow highlighter or underline
21 them, correct?

22 A. Yes.

23 Q. Okay. But does the fact that these
24 names -- certain names have a little black dot next to
25 them indicate to you that somebody was going to

1 **investigate these names further?**

2 A. Well, someone had a reason to put --

3 MR. MICHALIK: Objection. Form. Calls for
4 speculation.

5 A. Oh, sorry. Someone had a reason to put the
6 dots there. I don't know what the reason was.

7 BY MR. STARR:

8 **Q. Okay. Is it possible that the people who have**
9 **dots next to their name are the people that were the**
10 **fillers in the Clinton Fletcher photo array?**

11 MR. STEFANICH: Objection. Foundation, form.

12 A. Well, seeing that there are quite a few dots,
13 I would -- I would doubt that. I don't know that we
14 would've needed that many filler photos.

15 BY MR. STARR:

16 **Q. Okay. What is a RAMIS report?**

17 A. Well, to the best of my recollection, there
18 was some computer search where you could put various
19 parameters into what you want to search for, names
20 so -- or other things that you'd want the computer
21 to -- to bring out for you. But I don't -- I don't
22 remember what the RAMIS name stood for.

23 **Q. It's an --**

24 A. But it sounds familiar, yes.

25 **Q. Sorry. It's an acronym?**

1 A. Yes.

2 Q. Okay. And it's -- just to summarize your
3 testimony, it's a -- like, an electronic online computer
4 tool that you use in your investigations?

5 A. Yes.

6 Q. Okay.

7 A. I mean, something that just law enforcement
8 can use.

9 Q. And you could use it for -- to run a name
10 search?

11 A. Yes.

12 Q. And do you know what the database -- what
13 information the database contains? Is it people that
14 have been previously arrested or do you have any idea?

15 A. I would assume it would be previously
16 arrested.

17 Q. Okay. Do you know when the RAMIS system came
18 into existence within the CPD?

19 A. No, I don't.

20 Q. Do you know if it's a CPD specific system, or
21 is it a system that other police departments use?

22 A. You know, I can't even recall that.
23 I -- I would guess the other law enforcement agencies
24 could probably use it.

25 Q. Have you ever personally ran a RAMIS report?

1 A. Seeing that it sounds familiar, I'm sure I
2 have.

3 Q. Okay. Did I ask you, do you know when it came
4 into existence?

5 A. I don't know.

6 Q. Okay. Do you know if it was in existence in
7 1995?

8 A. I don't know.

9 Q. Do you know if it was in existence in 2002?

10 A. I really don't.

11 Q. Do you know what information is necessary in
12 order to run a RAMIS report?

13 A. I don't know.

14 Q. Do you know what a RAMIS report looks like
15 when it's printed out?

16 A. I -- I can't remember that, no.

17 Q. Okay. So it could be this -- it could be this
18 Exhibit number 2, right?

19 A. It could be. It doesn't indicate. It just
20 indicates criminal record search, but I don't know.

21 Q. Do you know when you learned how to use the
22 RAMIS system?

23 A. No, I don't.

24 Q. Did you ever receive any training on the RAMIS
25 system?

1 A. Somehow, I would've had to learn how -- how to
2 how to bring up the RAMIS system on the computer.
3 I don't know how I did that.

4 Q. All right. And then when I asked you about
5 another acronym, what is it -- what is an ICAM report?
6 Or what is ICAM, is a better way to ask that question.

7 A. I'm trying to remember what that stands for,
8 too, but I -- I really can't remember exactly what that
9 is. I mean, I believe there's photos related to ICAM,
10 but

11 Q. If I represented to you that it stood for
12 Information Collection for Automated Mapping, does that
13 sound correct?

14 A. Sounds good to me.

15 Q. Okay. Did you ever use the ICAM system?

16 A. I'm sure I have.

17 Q. And what information is necessary to run an
18 ICAM report?

19 A. I don't remember.

20 Q. Do you know what it does?

21 A. I really couldn't go into it, no.

22 Q. Is it another investigative tool that you use
23 to search for names?

24 A. It might be. I mean, obviously it gives us
25 some information. I -- I don't recall what.

1 Q. Okay. Do you know what an ICAM report looks
2 like when it's printed out?

3 A. No.

4 Q. Do you know when you learned to use the ICAM
5 system?

6 A. No, I don't.

7 Q. Did you -- did you ever receive any training
8 on the ICAM system?

9 A. I assume, as in the RAMIS, I had to be told by
10 somebody how to do it.

11 Q. But you don't have any independent
12 recollection of any training, correct?

13 A. No.

14 Q. Okay. You can put that number 2 aside. I'm
15 going to show you another one here. I'm going to mark
16 this as Exhibit number 3. And for the record, this is
17 Fletcher -- I'm sorry. No, this is City JF-62 through
18 85. Take a couple of moments to review that document and
19 let me know when you're ready to answer some questions
20 about it, sir.

21 (EXHIBIT 3 MARKED FOR IDENTIFICATION)

22 A. Okay.

23 BY MR. STARR:

24 Q. Did you have an opportunity to review this
25 document, sir?

1 A. Yes.

2 Q. Okay. Did you -- have you ever seen this
3 document before?

4 A. In the -- the police file that I was given.

5 Q. Okay. So it was in the file that you reviewed
6 in preparation for today's deposition?

7 A. Yes. Well, I -- I've seen it in there, yes.

8 Q. Okay. And do you know -- for the record, can
9 you tell me what this document is?

10 A. Well, this is what an ICAM document looks
11 like, apparently.

12 Q. Okay.

13 A. It -- this was run -- run for people with the
14 name of Fletcher. It was run August 19th of 1999. But
15 the -- there's no indication of who would've run this.

16 Q. You don't see your name on this document
17 anywhere, do you, sir?

18 A. No.

19 Q. Okay. And do you have any independent
20 recollection of creating this document?

21 A. No, I don't.

22 Q. Do you have any independent recollection of
23 reviewing this document when you began investigating
24 the Willie Sorrell shooting?

25 A. Well, obviously, this wasn't done until '99,

1 so it wouldn't have been in there in '95.

2 Q. So it was created after you had started
3 working on the case, correct?

4 A. Yes.

5 Q. So in addition to you and Detective Bogucki
6 and Detective Noradin, what other Chicago Police
7 detectives worked on the Willie Sorrell case after
8 you joined the case in 1995?

9 A. Well, apparently Detective Rutherford and
10 McDonald. That's the only other two I know.

11 Q. Okay. So is it -- because this was in the
12 investigative file, is it safe to assume that either
13 yourself, Detective Bogucki, Detective Noradin,
14 Detective Rutherford, or Detective McDonald ran this
15 report and included it in the investigative file?

16 MR. MICHALIK: Object to form.

17 A. I believe one of us would've had to. I don't
18 believe it was me or Bogucki, because we don't have any
19 reports in 1999 about it. Actually, nobody has a report
20 in 1999 about it, but I don't believe it was ours.

21 BY MR. STARR:

22 Q. Okay. And you testified earlier that you
23 thought Rutherford and McDonald were good detectives,
24 correct?

25 A. Yes.

1 Q. And you would expect that if they ran this
2 report, they would include a police report explaining
3 what the purpose of running this report is?

4 A. Not necessarily. It's obviously evident that
5 they're looking for a Fletcher, and because of the
6 previous reports, a Fletcher was the suspect. So it's
7 obvious that that's what they're looking into -- is what
8 we're looking into.

9 Q. And because you were working on this case, you
10 would've been made aware of other investigative work
11 that was done by the detectives?

12 A. Well, no, not necessarily. We could have been
13 busy with other things. They -- they could have done
14 things independent of us.

15 Q. So you don't know -- you previously testified
16 you don't know who ran the report amongst the five
17 detectives that we previously listed, right?

18 A. No, I don't.

19 Q. But somebody did, correct?

20 A. Well, it's in the file, obviously.

21 Q. Okay. You don't think that if another
22 detective had run this report, you would've been made
23 aware of it?

24 A. Not necessarily.

25 Q. And was that a common thing that when you were

1 working on an investigation with other detectives, they
2 were running reports and doing an investigation and not
3 keeping you abreast of what they're doing?

4 A. Well, it depends on the case. I mean, on,
5 you know, on an active case, you know, it's being passed
6 down from watch to watch. Certainly, that information
7 we'd passed on cold cases, not necessarily.

8 Q. Okay. So in 1995, if Rutherford and McDonald
9 gave you this information that there was a suspect by
10 the name of Fletcher Clinton, and you investigated that
11 suspect, and your investigation led you to believe that
12 he was not a suspect, that's the kind of information
13 that you would've communicated to Rutherford and
14 McDonald, correct?

15 A. I would guess we would, seeing that they were
16 the ones to ask us to show the photo array, yeah.

17 Q. Because they gave you an investigative lead,
18 so to speak, right?

19 A. You can call it that.

20 Q. And you followed up on it and you determined
21 that it wasn't a good lead, correct?

22 A. Yes.

23 Q. And then you would've told them, we followed
24 up on your lead, and it wasn't a good investigative
25 lead. Fletcher Clinton's not a suspect anymore,

1 correct?

2 A. Well, we would've told him what -- what
3 happened when we showed the photo array.

4 Q. Okay. What you would've told McDonald or
5 Rutherford, that you showed the photo array of Edward
6 Cooper, including Fletcher Clinton, and he wasn't able
7 to identify Fletcher Clinton, correct?

8 A. Again, I don't remember any of the specific
9 conversations, but we probably would've told them,
10 seeing that they gave us that name to -- to try to show
11 to Edward Cooper.

12 Q. Okay. And you previously testified in this
13 deposition that Edward Cooper's negative identification
14 of Fletcher Clinton led you to believe that he was no
15 longer a suspect, correct?

16 A. Yes.

17 Q. And you went as far as you didn't show any of
18 the other witnesses the same photo array with Fletcher
19 Clinton because you ruled Fletcher Clinton out, because
20 Edward Cooper could not identify him, correct?

21 A. We didn't do anything further at that point.
22 If -- if more information would've come in on him, I
23 certainly would've followed up on it, but that's all we
24 did on him.

25 Q. Sure. But my question is, because Edward

1 Cooper did a negative identification during your photo
2 array that included Fletcher Clinton, you ruled Fletcher
3 Clinton out as a suspect?

4 A. Well, he's -- he's saying he's not one of the
5 offenders, yes.

6 Q. Right. And because he told you that he
7 couldn't identify Fletcher Clinton, you ruled him out as
8 a suspect?

9 A. Him saying that neither of the offenders are
10 in this photo array makes me rule him out as a suspect,
11 yes.

12 Q. Okay. And yet in 1999, four years later,
13 somebody who was in -- working on the Willie Sorrell
14 shooting homicide investigation ran a name check of
15 Fletchers, correct?

16 A. Yes.

17 Q. And this name check includes Fletcher Clinton,
18 right?

19 A. What page is that on?

20 Q. That is on City JF-78.

21 A. If that's the same Fletcher Clinton, I assume
22 it is, yes.

23 Q. How could we tell if that's the same Fletcher
24 Clinton?

25 A. IR number.

Q. Okay. And his IR number is 823141?

A. Yes.

Q. Okay. I'm going to show you what I'm going to mark as Exhibit number 4. And the Bates on this is City JF-4561. All right. Take a look at that Exhibit number 4 there, sir. It's a photograph, Bates 4561. Let me know if you have a moment to review it.

(EXHIBIT 4 MARKED FOR IDENTIFICATION)

A. Yes.

BY MR. STARR:

Q. And that is a Chicago Police mugshot, correct?

A. Yes.

Q. And what is the IR number on that Chicago Police mugshot?

A. 823141.

Q. 823141?

A. Right.

Q. And does that indicate to you that that's a mugshot of Fletcher Clinton?

A. That's the same IR number of a Fletcher Clinton that's on this ICAM report.

Q. Right. And so the photograph of that individual in that -- the photograph of that individual has the IR number 823141, correct?

A. Yes.

1 Q. And does that indicate to you that that's a
2 photograph of Fletcher Clinton?

3 A. Of a Fletcher Clinton, yes.

4 Q. Okay. And the same Fletcher Clinton at the
5 1999 ICAM search ran the same exact IR number, right?

6 A. Yes.

7 Q. They're one in the same, correct?

8 A. Correct.

9 Q. Okay. So the Fletcher Clinton that's listed
10 on City JF-78 and 79, because it's the bottom there,
11 is the same Fletcher Clinton that's listed in the
12 photograph that I just showed you as in Exhibit 4,
13 correct?

14 A. Yes.

15 Q. Okay. So that -- does that tell you -- does
16 that indicate to you that in 1999, somebody was
17 still -- somebody who was working on the Willie Sorrell
18 investigation was still investigating Fletcher Clinton
19 as a suspect?

20 MR. STEFANICH: Objection. Foundation.

21 A. No. It just indicates that the ICAM, that
22 there was a search for people named Fletcher on the
23 ICAM, and the ICAM spit out a lot of Fletcher names.
24 BY MR. STARR:

25 Q. But not all the Fletcher names, right?

1 A. I don't know what parameters were used,
2 but there's a number of Fletchers on these pages.

3 Q. Well, in 1999, do you know if my client,
4 James Fletcher, had already been arrested by the Chicago
5 Police and already had an I number -- IR number?

6 A. Yes, he had.

7 Q. Okay. His name's not on this ICAM list,
8 is it?

9 A. I -- I don't know. I didn't look at --

10 Q. I'll represent to you that it's not. Do you
11 believe me? If you want to take a look, go ahead. But
12 I'll represent to you that James Fletcher is not on this
13 list.

14 A. Okay. I'll believe you.

15 Q. Okay. But Fletcher Clinton is.

16 A. Okay. Yes.

17 Q. So what is this report, done in January of
18 1990 -- I'm sorry, August of 1990 -- what does this --
19 August 19th of 1999, someone ran an ICAM report that
20 generated Fletcher Clinton's name, what does that
21 indicate to you?

22 MR. STEFANICH: Objection. Form and
23 foundation.

24 A. Well, it indicates to me that the -- that the
25 people with names Fletcher came up on here. James

1 Fletcher used a number of aliases, which may be why this
2 ICAM report didn't print him out, as he -- he's in
3 prison under Arnold Dixon. I believe he used several
4 other aliases for as many arrests, so...

5 BY MR. STARR:

6 Q. Like Jimmy Fletcher instead of James Fletcher,
7 right?

8 A. I believe that was one of his many, yes.

9 Q. What other aliases, besides Arnold Dixon and
10 Jimmy Fletcher, did James Fletcher use?

11 A. I'd have to see his --

12 Q. Okay.

13 A. -- rap sheet to know, but --

14 Q. So --

15 A. -- I believe there are others.

16 Q. Do you think that James Fletcher's name didn't
17 come up in this ICAM report because he used an alias?

18 A. I believe he was probably in ICAM as a -- as a
19 different name. That's why it didn't print him out.

20 Q. If he was arrested as James Fletcher, would he
21 not be in ICAM?

22 A. I --

23 MR. STEFANICH: Objection to foundation.

24 A. I -- I would assume he would be.

25 BY MR. STARR:

1 Q. When you run an IR search, you're a
2 detective -- you were a detective for a long time,
3 so you -- I'm sure you did this. When you run an IR
4 search, does it not give you-all the names and all the
5 aliases that are associated with that IR number?

6 MR. STEFANICH: Objection to form and
7 foundation.

8 A. It -- it will give the -- all the arrests of
9 that person with that IR number.

10 BY MR. STARR:

11 Q. And so if they were arrested with an alias, it
12 would give you that name, right?

13 A. Well, that's different than an ICAM search
14 though.

15 Q. Okay. I get that. But I'm asking you, if you
16 run an IR search, it would give you-all the names that
17 are associated with the persons who's connected --

18 A It would --

19 Q. -- to that IR, correct?

20 A. It would print out his rap sheet, all of his
21 arrests, all the names he used for all those arrests.

22 Q. Okay. So is it your testimony that you think
23 the reason that James Fletcher's name is not on this
24 ICAM list is because he used an alias?

25 MR. STEFANICH: Objection. Foundation.

1 A. Well, I -- I would have to guess. And -- and
2 I also would assume there's more Fletchers than these
3 pages. But anyway, I would have to guess he's not on
4 here because in ICAM, he's under a different name.

5 BY MR. STARR:

6 Q. Okay. I'm not withholding any of the
7 Fletchers that were on this list, just so we're on the
8 same page here. You understand that, right?

9 A. Okay. Okay.

10 Q. This is this is produced by the city in this
11 litigation. I'm not withholding any of the
12 Fletchers -- list of Fletcher names from you.

13 A. Okay.

14 Q. Okay? Can you think of any other reason,
15 besides the name Fletcher was ran through ICAM, that
16 there's a ICAM search with Fletcher Clinton's name on
17 the list?

18 A. No. I assume that that's what ICAM spit out.

19 Q. Okay.

20 A. You ask them for Fletcher's, that's what they
21 give you.

22 Q. These Fletchers are all first name Fletchers,
23 correct?

24 A. I didn't look that closely.

25 Q. Well, go ahead and look closer.

1 A. Yeah. If that's the case, I don't know why it
2 was run like that.

3 Q. Well, in 1995 --

4 A. That should --

5 Q. -- you had reason to believe that Fletcher
6 Clinton was involved in this case, correct?

7 A. He was a possible suspect.

8 Q. So it appears from this ICAM report that in
9 1999, whoever ran the report had reason to believe that
10 someone with the first name Fletcher was involved in
11 this case. Is that not correct?

12 A. Not necessarily --

13 MR. MICHALIK: Object to form.

14 THE WITNESS: Excuse me.

15 MR. MICHALIK: It calls for speculation.

16 A. Yeah, not necessarily.

17 BY MR. STARR:

18 Q. Okay. So how do you interpret this search for
19 all Fletchers with the first name Fletcher?

20 A. That for whatever reason, whether it wasn't
21 typed in here right, the ICAM report just printed out
22 people with first name of Fletcher. There would be no
23 reason just to run the first name of Fletcher.

24 Q. Well, what -- let me ask you this. What
25 reason might there be to run a search of all people with

1 a first name Fletcher?

2 A. You would run them both, first and last names.

3 Q. Okay. That's fair. But what reason might a
4 detective run a search for only first name Fletchers?

5 A. If the information they had was that an
6 offender had a first name of Fletcher.

7 Q. Okay. And is it your testimony that you think
8 that the reason that the search was run for first name
9 Fletchers is because someone typed it in wrong?

10 A. I can't explain why -- why it's only printed
11 out first name of Fletchers. It -- it doesn't make any
12 sense.

13 Q. And you don't know whether or not you ran the
14 search, correct?

15 A. I don't believe I did.

16 Q. But you don't know --

17 A. Because I don't believe I -- I did anything in
18 1999 with this case.

19 Q. But you don't have an independent
20 recollection, so you can't say one way or the other
21 whether or not you, in fact, are the person who ran the
22 search for people with the first name Fletcher in August
23 of 1999, correct?

24 MR. STEFANICH: Objection to form.

25 A. There would be absolutely no reason for me to

1 run just the first name of Fletcher in this case.

2 BY MR. STARR:

3 Q. Well, that's not my question, but let's think
4 about that answer. You just said there would be
5 absolutely no reason for you to run the first name of
6 Fletcher in this case. When I asked you why someone
7 would run just the first name, you said it's because
8 there was information to indicate that the suspect had
9 the first name Fletcher.

10 A. I said, there'd be no reason to run just the
11 first name of Fletcher. You would run both first name
12 and last name.

13 Q. So do you think that somebody ran the search
14 for last name of Fletcher and just didn't include it in
15 the investigative file?

16 MR. STEFANICH: Objection. Foundation.

17 A. I -- I -- I don't know. I can't explain why
18 there wasn't more run on that.

19 BY MR. STARR:

20 Q. So it's possible somebody ran the last name
21 Fletcher, and then just didn't include that document in
22 the investigative file, correct?

23 A. It's not --

24 MR. STEFANICH: Objection. Foundation.

25 A. It's not likely, seeing this was included.

1 There should have been the other two, but I -- I don't
2 know. I have no explanation for it.

3 BY MR. STARR:

4 Q. But it's your testimony that somebody who ran
5 a first name Fletcher should have also ran a last name
6 Fletcher?

7 A. If you're going to search for Fletchers, then
8 you should do both.

9 Q. If you think that the suspect has the first
10 name Fletcher, should you also run the last name
11 Fletcher?

12 MR. STEFANICH: Objection. Form.

13 A. Well, again, it depends on the information.
14 If someone's telling you, I know his first name is
15 Fletcher, then I would run just the first name is
16 Fletcher.

17 BY MR. STARR:

18 Q. Well, in this case, you -- this is the
19 information you had, correct? Terry Rogers tells the
20 police in 1990 that he hears one of the offenders yell
21 the name Fletcher.

22 A. Could be a first name or last name.

23 Q. Yeah. He doesn't specify, correct?

24 A. Correct.

25 Q. Okay. And then you get the name Fletcher

1 Clinton from McDonald and Rutherford, correct?

2 A. Yes.

3 Q. In '95?

4 A. Yes.

5 Q. Okay. So at that juncture, you have
6 information that one of the witnesses heard the name
7 Fletcher, and these two other detectives have a suspect
8 with the first name Fletcher, correct?

9 A. We have a possible suspect with the first name
10 Fletcher.

11 Q. Yeah. Is that enough of a reason to run a
12 search for first name Fletchers?

13 MR. STEFANICH: Objection.

14 A. Well, the reason --

15 MR. STEFANICH: Form and foundation.

16 A. The reason you'd run a name for any Fletchers
17 is -- is because you have a witness saying they heard
18 the name Fletcher. You wouldn't -- you don't know
19 whether that's a first or last name.

20 BY MR. STARR:

21 Q. Right. Which is probably why this Exhibit
22 number 2 that I showed you earlier and this printout of
23 the Fletcher names, this is probably why this is run,
24 correct?

25 MR. MICHALIK: Objection to form and

1 foundation.

2 A. That appears to be run with just the last name
3 of Fletcher.

4 BY MR. STARR:

5 Q. Right. And the reason it was run --

6 A. But it even printed out other names
7 with -- that start with F on it.

8 Q. Yeah. But the reason why someone -- the
9 detective would run this search is because they have
10 reason to believe that one of the offenders had the name
11 Fletcher?

12 A. Because --

13 MR. MICHALIK: Objection. Form. Foundation.

14 A. Because of what Terry Rogers had said.

15 BY MR. STARR:

16 Q. Okay. Do you know -- can you say whether or
17 not Detective Bogucki ran this search that's in Exhibit
18 number --

19 THE REPORTER: 4.

20 Q. -- 4?

21 MR. STEFANICH: Objection. It's Exhibit number
22 3 --

23 MR. MICHALIK: Yeah.

24 MR. STEFANICH: -- but objection. Asked and
25 answered.

1 A. No, I don't know. I -- I don't think he did,
2 because I think -- think we would have done a report on
3 it, or done something with it, other than just put this
4 in the file.

5 BY MR. STARR:

6 Q. But you do know one or the other, correct?

7 A. No.

8 Q. And you can't even tell me one way or the
9 other if you read this report, right?

10 A. I can't say for sure. I certainly don't
11 remember it.

12 Q. Okay. Is there any other information on this
13 report that you can identify for me to tell us who ran
14 the report, or what the search criteria they put in for
15 the report was?

16 A. I don't see anything that would indicate who
17 ran the report. It just says it's for Fletcher using,
18 whatever that means. No, there's nothing else to
19 indicate on here.

20 Q. And if you look at City JF-78, the one that
21 has Fletcher Clinton's name on there, did you ever go
22 interview this Fletcher Clinton?

23 A. No.

24 Q. Okay. How come?

25 A. Well, because we -- he wasn't identified as an

1 offender.

2 Q. And I'm not sure if I asked you this, but did
3 Rutherford or McDonald ever explain to you how they came
4 up with the name Fletcher Clinton?

5 A. I don't remember what -- what we talked about,
6 so they may have. I would assume they would have told
7 us something of -- of why we wanted -- why we wanted to
8 show the photo array to Edward Cooper.

9 Q. And if I represent you -- and we'll look at
10 this report at some point, but if I represent to you
11 there's a report that suggests that McDonald and
12 Rutherford came up with this Fletcher Clinton name
13 because he lived close to the victim, Edward Cooper,
14 does that refresh your recollection at all?

15 A. It doesn't. I don't remember our
16 conversation, no.

17 Q. Okay. You see this Fletcher Clinton has two
18 addresses, correct?

19 A. Yes.

20 Q. 4238 West Washington?

21 A. Yes.

22 Q. And then the other one is 1538 North
23 Leaming --

24 A. Leamington.

25 Q. Leamington?

1 A. Yes.

2 Q. Right. And you never went to either of those
3 locations, correct, to interview --

4 A. Correct.

5 Q. -- Mr. Fletcher -- or Mr. Clinton?

6 A. Correct.

7 Q. Do you know where Edward Cooper lives?

8 A. I'd have to look at the reports to indicate
9 what his home address is.

10 Q. Do you know if either of these two addresses
11 is anywhere near where Edward Cooper lives?

12 A. I -- I'd have to see where Edward Cooper's
13 address is to tell you that.

14 Q. Yeah. Are you pretty familiar with Chicago
15 streets in hundreds?

16 A. Yes.

17 Q. Okay. So Mr. Cooper, who -- I'll represent
18 you that Mr. Cooper lives on North Luna, does that sound
19 familiar?

20 A. I know the street Luna.

21 Q. Okay.

22 MR. STEFANICH: If I can get that Bates
23 whenever you find the address.

24 BY MR. STARR:

25 Q. Yeah, I'm looking for it. Sorry. I think

1 it's 1438. No, it's 1435 North Luna. I'm going to
2 represent to you that on City JF-52, it's a Chicago
3 Police report. It's a general progress report.

4 A. Uh-huh.

5 Q. Oh, I have it right here.

6 MR. STEFANICH: It's the one page I'm missing
7 actually, so...

8 MR. STARR: Well, I got a copy for you. I'm
9 going to mark this as Exhibit 5. Sorry, Paul.
10 Take a look at that report there briefly, sir.
11 And then, say the Bates, City JF-52?

12 (EXHIBIT 5 MARKED FOR IDENTIFICATION)

13 MR. STEFANICH: Yeah.

14 BY MR. STARR:

15 Q. Okay. Did you have an opportunity to review
16 that?

17 A. Yes.

18 Q. Okay. Are you familiar with this document?

19 A. Yes.

20 Q. Did you review this document in preparation
21 for today's deposition?

22 A. Yes.

23 Q. And can you tell me what this document is?

24 A. It's our -- our report from March of '95
25 regarding and interview of Edward Cooper.

1 Q. And does that report indicate what
2 Mr. Cooper's address is?

3 A. Yes, it does.

4 Q. And that is the top paragraph, it says his
5 address is 1435 North Luna?

6 A. Yes.

7 Q. Does that refresh your recollection of
8 Mr. Cooper's residence?

9 A. If that's what the report says, then that's
10 what it is.

11 Q. Do you -- but seeing that address, does that
12 refresh your recollection of going out to his residence
13 at any point in time?

14 A. No.

15 Q. Okay. Do you know if that address, 1435, is
16 in the same neighborhood as Mr. Fletcher Clinton's
17 address on 4238 West Washington?

18 A. It's not close to that address, no.

19 Q. Okay. And do you know if Mr. Cooper's address
20 at 1435 North Luna is close to the address of 1538 North
21 Leamington?

22 A. It's closer than the other address, but it's
23 still a distance away.

24 Q. Not the same neighborhood, correct?

25 A. No.

1 Q. Okay. This document that's marked as Exhibit
2 5, what kind of Chicago Police report is this?

3 A. Pardon me?

4 Q. What kind of report is this?

5 A. Well, it's -- it's a typewritten report put on
6 a -- a general progress report, which generally used as
7 just note paper. There was a -- a time where for brief
8 reports, they would allow us just to -- to type a report
9 on a -- the general progress report form.

10 Q. Yeah. When was that period of time?

11 A. Well, this was done in -- in '95, so sometime
12 around then.

13 Q. Do you have a distinct independent
14 recollection of there being a period in time where you
15 were allowed to type general progress reports? I don't
16 want to ask you anything that you --

17 A. Yeah, well I don't know --

18 Q. -- discussed with your attorney.

19 A. -- how many years we did that, but -- or what
20 -- what commander allowed that, but there was a time
21 period that it was done.

22 Q. Okay. So I don't want to -- I don't want to
23 intrude upon the attorney-client for privilege. I'm not
24 asking about any conversations you've had with your
25 attorney, but do you have an independent recollection of

1 there being a time period where you were told, as a
2 Chicago Police detective, you should type your GPRs?

3 MR. MICHALIK: Just object to the form of that
4 question.

5 A. I -- I recall that there was a time period
6 where we were allowed to do that.

7 BY MR. STARR:

8 Q. You were allowed to do it.

9 A. Yes.

10 Q. You weren't required to do it?

11 A. No.

12 Q. Okay. And do you know why you typed this GPR?

13 A. It was a brief report, so I assumed it was
14 just a -- a more quicker way of doing it.

15 Q. Okay. Does the fact that Detective Bogucki
16 signed it indicate to you who typed it?

17 A. I believe he did.

18 Q. Okay. Is that how you guys would do your
19 general practices, whoever wrote the GPR would sign it?

20 A. Yes.

21 Q. Okay. Did you ever write a GPR that Detective
22 Bogucki signed?

23 A. I don't believe so.

24 Q. Did Detective Bogucki ever write a GPR up and
25 then you signed it?

1 A. I don't believe so.

2 Q. Okay.

3 A. It's possible when -- and when they were just
4 used as notes. It's possible, if someone was just
5 submitting the notes, that they might sign a name --
6 name. I mean, there was a lot of times notes -- there
7 would be notes from different people written on the same
8 piece of paper, but...

9 Q. Would you have taken the typewriter with you
10 out to Mr. Cooper's residence to type this --

11 A. No.

12 Q. -- or would you have typed this back at Area
13 5?

14 A. Area 5.

15 Q. Okay. And so there is a fair amount of detail
16 in this general progress report, correct?

17 A. It's brief.

18 Q. It's brief, but there's a -- there's a decent
19 amount of details in it, correct?

20 A. Well, there's -- there's some details.

21 Q. Okay.

22 A. It's like, only a couple paragraphs long.

23 Q. It refers to a RAMIS check. Do you see that?

24 A. I do.

25 Q. And is this -- is it Exhibit number 4 that was

1 the RAMIS check? The one that had the --

2 A. That's -- that's --

3 Q. -- Fletcher Clinton?

4 A. That's ICAM.

5 Q. That's ICAM. Okay. Would this be a RAMIS
6 check?

7 A. It might be. I don't remember.

8 Q. Okay. So it's possible that it -- what's been
9 marked as Exhibit number 2, I have it number 3 written
10 on here, but Exhibit number 2, which is Bates stamp
11 8696, that this is the RAMIS search that was run before
12 you went out to Mr. Cooper's residence in 1995, right?

13 A. I don't know what --

14 MR. MICHALIK: Object to form.

15 A. I don't know when that was run.

16 BY MR. STARR:

17 Q. Right. But --

18 A. -- or by who.

19 Q. This report indicates that a RAMIS search was
20 run of people with the last name Fletcher, or with the
21 name Fletcher, correct?

22 A. It indicates that Clinton's name was obtained
23 through a RAMIS check of Fletchers.

24 Q. Yeah. It doesn't say Fletcher's first name or
25 Fletcher's last name, right?

1 A. No, it doesn't.

2 Q. It just says Fletcher?

3 A. Yes.

4 Q. Should that RAMIS check, that name search,
5 have been included in the investigative file?

6 A. Possibly.

7 Q. Based on your previous testimony about
8 detectives McDonald and Rutherford being diligent in
9 doing their job correctly, would you assume that they
10 would've included that RAMIS check in the investigative
11 file?

12 MR. MICHALIK: Object to form.

13 A. They could have, but seeing that we wrote this
14 report about it, maybe it wasn't necessary. I don't
15 know.

16 BY MR. STARR:

17 Q. Okay. Did you see any other things in the
18 investigative file that could have been a RAMIS name
19 check, besides this document --

20 A. not that I --

21 Q. -- Exhibit number 2?

22 A. Not that I recall, no.

23 Q. Okay. So is this document, Exhibit number 2,
24 the most likely candidate for the RAMIS check that was
25 run prior to your going out to Mr. Cooper's residence in

1 1995?

2 A. I don't know.

3 MR. STEFANICH: Objection. Objection. Form
4 and foundation. You can answer.

5 A. I -- I can't say that. I don't know.

6 BY MR. STARR:

7 Q. Tell me what else in the investigative file
8 might be the RAMIS name check that was run, besides
9 Exhibit number 2?

10 A. I don't know.

11 Q. Is it because you didn't get a chance to
12 review the investigative file?

13 A. No, I -- I -- I don't know what that is. And
14 I don't -- don't see anything else that says RAMIS in
15 the file.

16 Q. Yeah, I understand that. Was there anything
17 else that you saw in the investigative file, besides
18 this document that's Exhibit number 2, that could have
19 been the RAMIS name check?

20 A. Not that I recall, no.

21 Q. Okay. I just want to make sure I asked you
22 this and maybe I did, you reviewed this in preparation
23 for today's deposition, right?

24 A. Yes.

25 Q. Okay. And then what date is on this report?

1 A. March 19th of '95.

2 Q. And this is your first interview with Mr.
3 Cooper, correct?

4 A. Yes.

5 Q. And based on your previous testimony, your own
6 terminology, this would be a re-interview of one of the
7 eyewitnesses, right?

8 A. Yes.

9 Q. Because Mr. Cooper was interviewed by the
10 detectives originally assigned to the case in 1990,
11 right?

12 A. Yes.

13 Q. Okay. Do you have any independent
14 recollection of this interview at all?

15 A. No.

16 Q. And does seeing this GPR help refresh your
17 recollection at all?

18 A. No.

19 Q. Okay. And this document indicates that at
20 some point in your investigation, you were focused on
21 someone with the first name of Fletcher, right?

22 MR. STEFANICH: Objection to form.

23 A. No, it doesn't say that.

24 BY MR. STARR:

25 Q. Well, it says an IR check of Fletcher Clinton

1 showed that he had a UW robbery and drug arrest. He's
2 currently serving time in DFC at Taylorville. At some
3 point in time, you were focused on Fletcher Clinton,
4 right?

5 MR. STEFANICH: Objection. Form.

6 A. Yes. This -- this report indicates that we
7 wanted to show Edward Cooper a photo array with Fletcher
8 Clinton. It doesn't indicate that they we were only
9 looking for persons with the first name of Fletcher.

10 BY MR. STARR:

11 Q. Yeah. That's not what I said. I asked you at
12 some point, your investigation was focused on someone
13 with the first name of Fletcher, and that's right,
14 right?

15 MR. STEFANICH: Objection. That's not what you
16 asked, but I'll object to the form, again.

17 A. Fletcher Clinton, that's the one person with
18 the first name of Fletcher that we showed the photo
19 array of.

20 BY MR. STARR:

21 Q. Okay. And you're referring to it as a photo
22 array, but if you look at the second paragraph, it says,
23 a photo of Clinton was obtained, and a photo show-up was
24 conducted at the home of Edward Cooper. Do you see
25 that?

1 A. Yes.

2 Q. And is your testimony that the photo show-up
3 was, in fact, the photo array where --

4 A. Same --

5 Q. -- you showed multiple photos, right?

6 A. Same thing. Just a group of photos, yes.

7 Q. Okay. And that photo array resulted a
8 negative -- a negative identification, correct?

9 A. Correct.

10 Q. And that was documented in this report by you
11 and Detective Bogucki, correct?

12 A. Yes.

13 Q. Did you document that photo array anywhere
14 else?

15 A. No.

16 Q. And you don't know what photos you showed
17 Mr. Cooper, other than the photo of Fletcher Clinton,
18 correct?

19 A. Correct.

20 Q. And you don't have any recollection of how you
21 chose the other photos that you used as fillers,
22 correct?

23 A. Correct.

24 Q. And you don't have any independent
25 recollection of the photo of Fletcher Clinton, right?

1 A. No, I don't.

2 Q. I showed it to you. It was Exhibit number 4.
3 It didn't refresh your recollection at all, right?

4 A. Right.

5 Q. Okay. And then do you know if the photos that
6 you used in the photo array in 1995 with Edward Cooper,
7 did those photos become part of the investigative file?

8 A. No, we don't -- we don't have to -- to hold
9 onto photos of a negative array.

10 Q. And so you did not include the photos from
11 that photo array in the investigative file, correct?

12 A. I don't believe there'd be any reason to do
13 that, no. I mean, you know, I --

14 Q. Should these photos --

15 A. Is it possible that they were thrown into the
16 file too? It's possible, but we weren't required to.

17 Q. That was my next question. Should the photos
18 that you used in the negative photo identification in
19 1995, should they have been included in the
20 investigative file?

21 A. No, they didn't have to be.

22 Q. What was your next investigative step, after
23 this interview resulted in a negative identification?

24 A. Well, according to this report, we tried to
25 both find Terry Rogers and when we couldn't do that, we

1 put a stop order in on him.

2 Q. What was your next investigative stop after
3 putting that stop order in?

4 A. Well, the next report is in 2002, when Terry
5 Rogers is arrested, and we're notified that he's in
6 custody.

7 Q. I think I asked you this, but just to be 100
8 percent sure, you never showed the photos that were part
9 of the 1995 photo array to any other witness besides
10 Edward Cooper, correct?

11 MR. STEFANICH: Objection. Asked and answered.

12 A. Correct.

13 BY MR. STARR:

14 Q. Did you do anything else after March 19, 1995
15 to investigate Fletcher Clinton?

16 A. Well, there's nothing in the -- the file to
17 indicate that we did. I don't remember doing anything
18 more, so apparently not.

19 Q. Well, the exhibit that I showed you was from
20 1999, had Fletcher Clinton's name on there. That
21 indicates that at some point, somebody ran a search that
22 generated a result that included Fletcher Clinton,
23 right?

24 A. Yes.

25 Q. But you don't have any independent

1 recollection of doing anything else to investigate
2 Fletcher Clinton after March 19, 1995, right?

3 A. No, I don't.

4 MR. STARR: Okay. You want to stop, and we'll
5 resume this at another point in time?

6 MR. STEFANICH: That's good with me.

7 MR. STARR: How much time are we on the record?

8 THE REPORTER: About 5 hours.

9 MR. STARR: Okay. That's fine. Let's stop.
10 Stop and we'll resume. We'll find another date that
11 works for the witness and for you guys, okay?

12 THE VIDEOGRAPHER: We are going off the record
13 at 4:52 p.m., and this concluded today's testimony
14 given by Raymond Schalk.

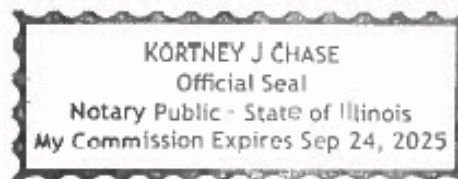
15 (DEPOSITION SUSPENDED AT 4:52 P.M. (CT))
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1 CERTIFICATE OF REPORTER

2 STATE OF ILLINOIS

3
4 I do hereby certify that the witness in the foregoing
5 transcript was taken on the date, and at the
6 time and place set out on the Title page hereof, by me
7 after first being duly sworn to testify the
8 truth, the whole truth, and nothing but the truth; and
9 that the said matter was recorded by me digitally and
10 then reduced to typewritten form under my direction, and
11 constitutes a true record of the transcript as taken,
12 all to the best of my skill and ability. I certify that
13 I am not a relative or employee of either counsel and
14 that I am in no way interested financially, directly or
15 indirectly, in this action.

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25



KORTNEY CHASE,

COURT REPORTER/NOTARY

MY COMMISSION EXPIRES: 09/24/2025

SUBMITTED ON: 05/25/2023

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